382-3

App. F. IX-4

1950-54
(C.B.)

File No. 446

Previous References.
C.B. 139-49-1
C.B. 139-49-86.3, 4
C.B. 139-49-2

Serial Nos. 1

Later References.
Chgp. 212-52-1
Chgp. 857-52

GENERAL AND REVENUE SECRETARIAT

Serial Nos. One

Part B for October 1950.

SUBJECT

Subsistance allowance to Janab S. A. Bashiruddin Ahamed, House Rent Controller under Suspension.

No. 10883/CB/28th October 1950

To The Accountant General in Bombay, Bihar

Directing that the payment of ——— may be stopped from 31st July 1950

WD 010861—GPB—25,000—18-9-50.

Serial No.

Letter no: P.73/50-51 d. 1/9/50 from the Private Secretary to His Highness forwarding the representation of Janab F.A. Basheeruddin Ahmed, Asstt Comr under Sus pension, requesting to appoint either Excise Commissioner, Revenue or Nizamat Court to hold an enquiry in his presence regarding the charges on which he stands convicted.

1) Chief Secretary's instructions:—
"Register and put up
Sd/- K.S
4/9/50

2) Submitted for perusal and orders
Sd/-
5/9/50

5.8.50.

3) Submitted with the previous references as instructed. Janab Basheeruddin Ahmed, Asstt Comr, was, on a charge of having abused his powers as House rent Controller, placed under suspension and prosecuted. Pending trial he was granted a subsistence allowance of Rs 72/8/- P.M as per rules. His request for the grant of an enhanced subsistence allowance was negatived as it was outside the rules.

4) The trial has since been concluded and Janab Basheeruddin Ahmed convicted and sentenced to two years R.I and to pay a fine of Rs 10000/- etc. Hence this representation

E
Enclosed file
'B'

C

P
Enclosed file
Q

NOTE—Contd. Sheet.

Representation of Janab Basheeruddin Ahmed

File No. High Court — under Suspension 3085 of 19 | General and Revenue Secretariat

Serial No. 2

5) His representation is couched in a language impolite and defamatory calling for serious notice He decries the action taken against him (viz Prosecution proceedings) and denounces the Govt and his erstwhile Superior Officers including the Anticorruption Agency as being vindictive and Communal. He indicts the people that tried him as having relied on the misused version of prosecution, mutilated facts and convicted him mercilessly.

(6) For orders.

8/9 Chief Secy) RonR 9.9.50

8.9.50 7) Has he appealed to the High Ct?

8/9 RonR 11.9.50.

8) Noted.

9) It is seen from the report of the District Magistrate B'lore that the accused is on bail and has since appealed to the High Court against this conviction.

11/9/50 Chief Secy) 10) RonR 11.9.50

11.9.50 11) Personal. The matter is subjudice, and we may say so to him in a reply. The allegations

CHIEF SECRETARY 5382 9 SEP 1950 GOVT. OF MYSORE

P Linked file

CHIEF SECRETARY 11 SEP 1950 GOVT. OF MYSORE

Serial No.

conviction." In the memorandum leading to this ruling the following points are also given (as relevant) for consideration:—

(a) "There is no legal objection to immediate action for dismissal etc being taken following conviction by the first trial Court."

(b) "Even in the event of the conviction being set aside it does not necessarily follow that there must have been an 'honourable Acquittal' necessitating reinstatement with full benefit of pay and allowance for the entire period the circumstance of the case may still be such as to call for departmental disciplinary action with a view to inflicting appropriate penalties."

19) The ruling of the G. O. I contemplates an examination of the merits of the case in the light of the points raised at (a) and (b) above before taking departmental action against the accused convicted by the first trial court. In any event it does not suggest the postponement of departmental action against the accused pending the decision of the High Court. On the contrary it emphasises the need for taking timely action to remove

NOTE—Contn. Sheet.

NOTE—Contn. Sheet.

Janet Bashiruddin Ahmed — Asstt. Lawr under Suspension

Serial No.

The Officer from Service and thereby save the unnecessary imposition on the State on account of subsistence allowance being continued to be paid to him while under suspension

20) The accused (Janet Bashiruddin Ahmed) has been convicted of a criminal offence by a competent court and there would perhaps, be no objection to take disciplinary action against him and withhold the payment of subsistence allowance. The accused, ~~appellant~~ has no ground for grievance either, for, the existing rules amply provide for his reinstatement with full benefit of pay and allowance for the entire period if he is acquitted and his innocence established beyond doubt.

30/1/50

21) The Law Branch may, in the first instance, examine the case with reference to the ruling of Govt. of India as ch para 18 ~~of the~~ and note if it is not opportune to take departmental disciplinary action against the accused.

30/9/50
3.10

22) Please put up a routine note to Law Br asking for a copy of the judgement in the case

3.10.50.

23) It is ascertained that no copy of the judgment in the case has been received in the Law Branch.

6/5/10/50

24) For orders whether a

Subsistence Allowance to Janab T. A. Bathusha Ummer

WD 010852—GPB—30,000—14 7-50

Serial No.

Copy of the Judgement may be obtained before Considering the proposal of the A. G. to treat the Officer as having been removed from Service with effect from 31. 7. 50.

5. 10. 50.

25) Yes. xmk 5/10/50

26) Draft letter put up for approval

6/10/50

27) Issue xmk 6/10/50

6. 10. 50. Issued No. 9777-9778/CB dated 6/10/1950 to the Accountant General and District Magistrate Bangalore

Letter dated 7/10/1950 from the Advocate General forwarding a copy of Judgment

28) Chief Secretary's instructions "please acknowledge" sd/- KS 7/10/50

Submitted with draft of acknowledgment for approval

7/10

29) Issue to Secretary xmk. 7.10.50

7. 10. 50.

To

The Advocate General for Mysore. No. 9918/CB dt. 9/10/1950 acknowledging the receipt of the Copy of Judgment in the Case referred to above

NOTE—Contn. Sheet.

Subsistence allowance to Jainab Bashiruddin Ahmed, Asst. Comr. under suspension

File No. CB {3583 / 3823} of 19

General and Revenue Secretariat

Serial No.

Letter dt 7/10/50 from the Advocate General for Mysore forwarding a copy of Judgment in the Ca

to

The Advocate General for Mysore

No. 9910/E&B dt 9/10/50 acknowledging the receipt of the copy of Judgment in the case

30) The copy of the Judgment (flag 'K') is for perusal and orders with reference to paras 16 to 22 of the note

18/10/50

by 18/10/50

31) The case against Jainab Bashiruddin Ahmed, Asst. Comr. (under suspension) has ended in conviction on 31.7.50, and he has been sentenced to undergo R.I. for a [redacted] period of two years and to pay a fine of Rs. 1000. The Officer has preferred an appeal against the Conviction and sentence of the Session Court to the High Court and the sentences have been suspended pending disposal of the appeal

32) The A. G. has reported that the payment of the subsistence allce. (at the rate of Rs. 72-8-0 p.m.) to the Officer has been made only up to the 30th July 1950, the date prior to the date of his Conviction, and has

Serial No.

Sought orders G. Govt. as to whether the Officer may be deemed to have been removed from service from 31.7.50

33) In this Connection, the A.G. has brought to notice a ruling of the Govt. of India to the effect that the Question whether appropriate orders of dismissal etc. may be passed in such a case should be examined as soon as the first trial Court has passed orders of conviction.

34) According to the Manual of General Circulars and Standing Orders, if the prosecution results in the conviction of an Officer, departmental punishment will generally be awarded without further enquiry. As has been recognised in the Govt. of India Memorandum forwarded by A. G. while there is no legal objection to immediate action for dismissal etc. So long as the conviction itself is not final in the sense that the possibility of its being set aside exists departmental action of a final nature such as dismissal etc. ought not perhaps to be taken.

35) In the circumstances it is for Consideration whether, for the present, it would be sufficient to stop the payment of the Subsistence allce. from

NOTE—Contn. Sheet.

Subsistence allowance Janab Bashiruddin Ahmed

File No. Asst. Comm. under Inspection 3823/CB. of 19

General and Revenue Secretariat

Serial No.

the date of Conviction, viz. 31.7.50, and to Consider the Question of removal after the result of the appeal to the High Court is known.

36) The payment of subsistence allowance to Janab Bashiruddin Ahmed may be stopped from 31-7-50, the date of conviction and the question of his removal or otherwise may be taken up after the result of the appeal to the High Court is known.

Chief Secy) 20/10/50

37) The above may be accepted. The question of dismissal, Compulsory retirement &c. will have to be considered, in consultation with the Public Service Commn. (to be drawn up).

Chief Minr) 26/10

or the Public Service Comm. as the case may be

38) 26/X

Office of the Chief Minister
No. 5572
Date of Receipt 24/10

Draft letter to A.G. put up for approval by 27/10/50

Issue 27-10-50.

To the Advocate General
Memo no. 10883/CB of 26/10/50
stating that the subsistence allowance to Janab Bashiruddin Ahmed may be stopped from the date of conviction.

B

3086/CB
Shi. V. K. S.

WD 64—GBPM—1,000—18-5-50

No. P 73/50-51/1

THE PALACE, MYSORE,
1st September 50. 195

The enclosed petition to His Highness the Maharaja, of which particulars are given below, is forwarded with compliments for favour of disposal.

To

The Chief Secretary to the Government
~~of His Highness the Maharaja~~ of Mysore.
Bangalore.

Petition dated 21-8-1950 from Hajarath T.A.Bashiruddin Ahmed, Assistant Commissioner, Bangalore, suggesting to appoint either Excise, Revenue or Muzrai Commissioner to hold an enquiry in his case.

5

CHIEF SECRETARY
CB
4 SEP 1950
GOVT. OF MYSORE

4/9/50

By Order,

~~Extra~~ *Private Secretary*
to H. H. the Maharaja of Mysore.

Sri Jayachamarajendra Wodeyar Bahadur
His Highness, The Maharajah of Mysore
Mysore

CS

Received from His Highness on 31.8.48

May it please your Excellency,

I most submissively entreat the condescension of perusal of the following lines of my grievances in the ardent hope of immediate redress in the matter.

I am an assistant Commissioner of the Mysore Service and was doing duty of the House Rent Controller of the Bangalore District discharging my duties to the best satisfaction of my Official superiors i.e., the Commissionerof Income-tax and the Deputy Commissioner, Bangalore District. In August 1948, Bangalore City and Taluk were amalgamated and constituted into a separate District and Mr. Puttarangaswamy was posted and he took charge. On the very day this Gentleman took charge, he wrote to me from Mayo Hall to send all the files for his orders stating that I have no power to pass final orders bexing his views presumably on the anology of the work of the Assistant House Controller of the Civil Station. This was a curious direction which none of his predecessors had given. I consulted the Government Orders in the matter and politely replied to him stating that I have got final power to pass orders and enclosed the relevant notifications issued by Government in this behalf. On perusing my reply the Gentleman appears to have been ostensibly infuriated and is said to have made a report to Government asking them to transfer me from his jurisdiction and this fact he admitted in the Sessions Court though he denied in Committal Court. He repeated his direction in forcible language again and I smelled that this Officer intended to harm me and replied to him stating that the files are being arranged and would be sent in a day or two with a view to placate him. I approached the Hon'ble Law Minister at his - Residence on 28th August 1948 and placed before him all the correspondence and stated that as he has got commandeering - powers he may be empowered ~~with~~ under clause (3). After perusing

perusing these, he instructed me to make a report on it and promised to issue suitable orders. Accordingly I submitted a report and a notification was issued by Government empowering the Deputy Commissioner to perform functions of Accommodation Controller and empowering the House Rent Controller under other Sections of the Order. Seeing his attempts at harming me - failed in this direction this Officer wrote another confidential D.O. C.7321/c 48 dated 31-8-48 making baseless allegations against me that I have not taken action properly under H.R.C. and that one Mr. N. Laxmana Rao may be appointed in my place referring to his previous report on the very day he received the Government Notification. This letter of his has been graciously exhibited in Court and marked as D.18.

In the meanwhile this Officer contented himself in using intemperate language against me before the very lawyers that appeared in my Court also when they appeared before him for accommodation control work. Mr. L.S. Raju's Junior is an instance to this point. In this connection it has to be pointed out in all fairness to this Officer that prior to the notification empowering him under Clause 3 of the H.R.C. only the H.R.C. houses allotted/~~xxxxxx~~ to officials. One House in Seshadripuram Extension or so formerly occupied by Mr. Shivananjappa now Secretary, Lamp Works was the subject of a Case of Rent enhancement before me and the said House fell vacant and I allotted it to Mr. Narayanasetti who had applied for the same. But then this Gentleman who had comandeering powers under Defence of India Act had allotted it without my knowledge for Mr.Henjarappa and when I allotted it to Mr. Narayanasetty, he got infuriated immediately and ~~have~~ swore vengence as I dared to intervene in his affairs. It was not his habit to send copies of his order in this behalf because he viewed me and my duties as nothing but ~~fort~~ trash and rubbish ~~and unblish~~. He still had not forgotten that Government had not taken action on his former reports and his fertile brain conceived of a more henious plan to entrap me and damn me. ~~He~~ It is clear from his report to Government exhibited in

in Court and marked as P.25, he was thinking of a ~~man~~ person who could carry out the nefarious mission of entrapping me by smuggling marked notes in my house. Mr. Henjarappa was too eager to help him officially and out of condescension for getting a comfortable house at a low rent and not to speak of both being chummy as class mates, promised to lend a helping hand to break vengence. Mr. Puttarangaswami even went to Madhugiri to - attend the marriage of Henjarappa's daughter and gave presents on this occasion.

Mr. Sanjeevappa is a well-~~dressed~~ versed man who knew exactly what to do in such contingencies being a Court Bird and having his house nearby to Puttarangaswami's ~~xxxxxx~~ Uncle's house offered an advantage over others and therefore Mr. Puttarangaswami on a fine morning on his way to his Uncle's house which he visits often approached him and ~~discussed~~ broached in the subject and sought his help which was readily offered wholeheartedly This Sanjeevappa it has got to be remembered, is one of those deputationists who supported the Candidature of Puttarangaswami for a Revenue Probationer's place in 1926 before Sir Mirza who granted him one without which he would have been ~~nothing~~ rotting in the precincts of Marimallappa High School as a School Master where he appears to have learnt interpretation of a ~~prose~~ phrase like a grammarian. This Sanjeevappa at that time was in his hey-day being a big Contractor and moving in high Circles prior to the Ganapati Disturbances when he ~~served~~ veered round and became an anti-muslim. This period of 1½ months is the time for preparation for this dastardly act i.e., making - friendship with my son without my knowledge culminating in the incidents of 13th Oct. 1948 which is ineffaceable in my history. Not only as a Deputy Commissioner and District Magistrade but as an Officer of the dominant community in the State he was backed by the Police Chief and their numbrous satellities of both Civil Station and City who raided my house and committed

committed all illegal and high handed acts to saliate the rabid lusty distemper of their master They deliberately chose the time when all the other high officers will be out of Bangalore so as to bar my approaches to them and the Id day, sacrileged the holy Khoran, broke open trunks and almirahs freely, searched about in my humble dwelling even encroaching upon the Purdah rights of Muslim Women, searched for papers and incriminating matters, violating the ~~orderly~~ ordinary rules of decency and decorrum and ~~eligible~~ Etiquette under the nose of their master and under their inspiration such as that which they will not do in broad day light in respect of ~~even~~ hardened criminally. All these things they did in dead of night and they have come up in evidence by the prosecution witnesses themselves. These things were done malafide with a sheer sense of vengence and I swear they were not done in respect of disloyal muslims having ~~opportunities~~ affinities with Hyderabad or Pakistan, and this they let loose upon a loyal un-offending Government Servant with a long record of faithful service and in respect of whom there never was not even a blot on service throughout his long - career. It surprises me how this popular Ministry is supporting the actions of their agent who did not at a time ~~sample~~ Scruple to put hundreds of these khadi clad gentlemen to torture in - the inglorious regimes of Dewans. Even though they are perfectly aware how I after the calamitous Viduraswatha disturbances took charge of Goribidnur Taluk and did not allow ~~avenue~~ even one man to be injured and with great tact and skill brought a rapport between the contending parties which led to the Signal success of Vidurnagar Congress which the Top-ranking leaders of All India fame visited, and now to be punished by the same - ministry from whom he expected a Sumptuous reward. But those days of Chivalry are gone and those of communal ~~performances~~ preponderance are ~~xx~~ uppermost in their minds.

The said Gentleman made a lengthy report to Government on 14-10-48 in consultation with the anti-curruption Chief and in

in fact sent the report through the latter glorifying himself into farming detected a case of bribery of the worst type and asked the Government to prosecute his victim and the Government complied with his request without hearing me because it is a hideous Muslim, a Saba, Jatka Thurka that was involved.

How the jurisdiction to my such cases vests in the City Magistrate who is a Subordinate of the Deputy Commissioner At this juncture as fate would have it one Mr. Narasimha Murthy was the Officer and he was transferred on promotion and seizing this opportunity the Deputy Commissioner recommended Mr. N. Lakshmana Rao though a Junior in rank to this place and accordingly he was appointed and he took charge on 22-12-48 It may be remembered that this very Laxmana Rao was recommended to be appointed in my place vide Para (1) and charge sheet against me was placed before this Officer on 23-12-48. This Gentleman sported with a spirit of vengence against me true to the spirit of pleasing his master like a loyal subordinate and gave not less than 52 adjournments in this case for preliminary enquiry and finally committed me to undergo trial in the Sessions - Court. Here records were manipulated to suit the purpose of the prosecution and depositions of previous witnesses were given for Deputy Commissioner's perusal and he was free to depose on the trend of evidence and this obliging loyal servant did not even allow the Cross Examination of his master to continue on a flimsy ground of non-appearance of the 2nd accused in time in Court and did not care to return the valuable authorities (Books cited at the time of argument) though we went and requested several times to his august presence. Charge sheet was placed on 23-12-48 and the preliminary enquiry concluded in the end of December 1949. This is the kind of justice accused got in this Court.

The Case was first transferred to the Assistant Sessions Judge for trial in the usual course and this did not please the Gentleman and his clique and a reference was therefore got made through the District Magistrate to High Court to have the Case

Case tried by the District & Sessions Judge of their liking. Hence the Case came up before the Additional District and Sessions Judge who posted the Case first to June 1950and when the Special Prosecutor who enjoyed a day-fee of Rs.135/- a day did not turn up adjourned it to 10-7-1950 and after prolonged trial concluded by taking the opinion of the assessors on 22nd July last. The assessors returned a unnanimous verdit of not guilty' and recommended that the accused should be given a benifit of doubt and the learned Judge adjourned the Case to 29-7-1950 for orders and further adjourned to 31-7-50 stating that the Judgment was not ready and on this day he convicted both the accused and passed what is called a detenent sentence on the 1st accused.

No body who has followed this Case closely has opined that a Case is made out at all against the accused this opinion is endorsed unequivocally by the emminent members of the bar. The matter is in appeal and stay order obtained and the accused released on bail. There is no doubt that the learned Judge has believed the prosecution story in all its meagre details though it differed from Court to Court at different stages. He does appear to have held also that the accused should not be permitted to adduce any defence and contented himself by noting that the defence statement of the accused is as given in the lower Court when the Counsel for the accused was absent and took their signature for some Kanarese writing and also cast to the four winds of heaven the impartial and unanimous opinion of the assessors and taking as much time as he pleased to pronounce the Judgment in defiance of all extablished customs and practises in such cases relying ofcourse on the single uncorroborated self-serving testimony of the suit-clad Sanjeevappa whose litigant record did not entitle him as such and who even went to the length of anaulting the accused's counsel in the verandah of the Court itself on the dav of his examination forgetting that the conduct or this witness is also an important matter in assessing the

the matter so as t o enable you to take suitable action. I specially appeal to you to take suitable action against the Officer who conspired against me with ~~Executive~~ private ones motives as you are the "Maharaj Pramukh" said to be responsible for just administration and if you deign to do any thing in this direction it will be a solace to me and to your Highness on the august day of your beloved nativity for who knows we may not be able to servive to see or celebrate other ~~on the~~ day or Jayanti.

Your most obedient & Loyal Servant,

K Basheer Ahmed.
3rd Cross. Cubbonpet
No. 1. Bangalore
21.8.1950

35-83/CB

OFFICE OF THE ACCOUNTANT-GENERAL,
MYSORE,

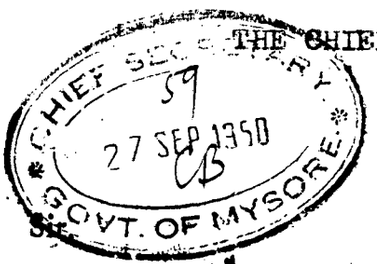
No. 577/GAD. Bangalore, dated 26th September 1950.

From

The Accountant-General, Mysore,
Bangalore.

To

THE CHIEF SECRETARY TO GOVERNMENT,
BANGALORE.



Sir,

Sub: Subsistence allowance to Janab T.A. Bashiruddin Ahmed.

Adverting to G.O.No.10651-53/C.B. 139-49-2 dated 16-2-1950 granting a subsistence allowance of Rs.72-8-0 p.m.(equivalent to one-fourth of his salary of Rs.290/-) to Janab T.A.Bashiruddin Ahmed, Assistant Commissioner placed under suspension from 14-10-1948, I write to state that payment of the allowance was made by this Office only upto the 30th July 1950 the date prior to the date of his conviction as reported by the First Additional Sessions Judge, Bangalore in his letter No.M.T.893/50-51 dated 13/14-9-1950 (copy enclosed). Orders of Government are requested whether the Officer should be deemed to have been removed from service from 31-7-1950.

In this connection I enclose for your reference a copy of Govt Order No.7/13/50 Ests. dated 9-6-1950 issuing a ruling relevant to this case.

Yours faithfully,

For Accountant General.

apg.

Letter No.M.T.893/50-51 dated 13/14-9-1950 from the First Additional Sessions Judge, Bangalore to the Accountant General Mysore, Bangalore.

RE: B.S,C.6/50-51 on the file of this Court (Government Vs.Janab T.A.Bashiruddin Ahamed and another.

With reference to your letter No.534/GAD dated 12-9-50, on the above subject, I have the honour to inform you that the above case ended in conviction on 31-7-1950. The accused has preferred an appeal against the conviction and sentence of this Court to the High Court in Criminal Appeal No.12 of 50-51 and the sentences have been suspended pending disposal of the above appeal.

Sd/-

First Addl.Sessions Judge.

Copy

26/9/50

Superintendent
G.A.D

For Accountant General

P.T.O.

No.7/13/50-Ests.
Government of India,
MINISTRY OF HOME AFFAIRS.
NEW DELHI, 9TH JUNE, '50.

OFFICE MEMORANDUM

When a Government servant is convicted by a competent court of a criminal offence involving moral turpitude, the appropriate authority can, under ~~Rule~~ Rule 55Rules, proceed to pass orders of dismissal, removal etc., without follwing the detailed procedure prescribed by that Rule. The question often arises in such cases whether there is any objection to passing such orders immediately on conviction by the first trial court or whether final action for dismissal, removal etc., should be postponed until the convicted Government servant has exhausted all his rights of appeal to higher courts.

2. Immediate action to pass orders of dismissal etc., avoids the wasteful expenditure involved in allowing the Government servant concerned to remain under suspension and to draw the subsistence allowance to which he is entitled under F.R.53. On the other hand, it can be urged that so long as the conviction itself is not final in the sense that the possibility of its being set aside on appeal exists, departmental action of a 'final' nature such as dismissal, removal etc., ought not to be taken.

3. In this connection the following considerations are relevant:-

(a) There is no legal objection to immediate action for dismissal etc., being taken following conviction by the first trial court; and

(b) Even in the event of the conviction beings set aside on appeal, it does not necessarily follow that there must have been an "honourable acquittal" necessitating reinstatement with full benefit of pay and allowances for the entire period. The circumstances of the case may still be such as to call for departmental disciplinary action with a view to inflicting appropriate penalties.

4. It has, therefore, been decided that as a rule the question whether appropriate orders of dismissal etc., may be passed in such case should be examined as soon as the first trial court has passed orders of conviction.

Sd- C.B.GULATI.
Under Secretary to the Government of India.

"COPY".

D. Jagdish Singh - G.A.D
Asstt. Comptroller
25-9-50.
P.T.O

Appendix F G—1]

SUBJECT B.S.C. 6/50-51 on the file of the First Additional Sessions Judge, B'lore (Govt Vs Janab T. A. Basheeruddin Ahmed and Another

Section

File No.

Serial No.

Diary No. of letter replied to .....

Immediate / Confl

No. 9777-781 CR 4. 6. 10. 50

To

General and Revenue Secretariat

( )

the *19*

(1) The Advocate General for Mysore, B'lore

Date of issue..... Sir, (2) Deputy / Sessions Judge Bangalore

I am directed to

Signed by..... request you kindly to forward a copy of the Judgment awarded in B.S.C. 6/50-51 on the file of the First Additional Sessions Judge, B'lore (Govt T.A Vs Janab Basheeruddin Ahmed and another) for reference in

List of enclosures..... this office.

An immediate Compliance is requested

Copied by.....

Examined by.....

WD 06818—GPB—25,000—9-7-49

6.10.50.

Sessions Judge 6/10/50 for Chief Secretary

GOVERNMENT OF MYSORE.

IMMEDIATE & CONFIDENTIAL

General and Revenue Secretariat,

No. 9777-9778/CB

Dated, Bangalore, 6.10.50 *1950.*

FROM

The Chief Secretary to the Government of Mysore.

To

1. The Advocate-General for Mysore, Bangalore.
2. The Deputy Commissioner & District Magistrate, Bangalore.

SIR,

I am directed to request you kindly to forward a copy of the Judgment awarded in S.S.C.6/50-51 on the file of the First Additional Sessions Judge, Bangalore, (Government Vs. Janab T.A. Bashiruddin Ahmed and another) for reference in this office.

An immediate compliance is requested.

Yours faithfully,

JMR 6/10/50

for Chief Secretary to Government.

LC/3

A. R. SOMNATH IYER
ADVOCATE
CHAMBERS : CHIKPET, BANGALORE CITY
RESIDENCE : ANNAPURNA, HIGH GROUND, BANGALORE
TELEPHONE: 2939

Dear Sreenivasan

I am herewith sending a copy of the judgment required by you.

Yours sincerely
A. Somanathaiyer
7.10.

CB
Mack

7/10

A. G. G. S.

7/10/50

IN THE COURT OF SESSION, BANGALORE DIVISION, BANGALORE.

Dated: Monday, the 31st day of July, 1 9 5 0.

Present:--Sri K.N.Thimmaraya Setty, B.A., LL.B.,
First Additional Sessions Judge.

BANGALORE SESSIONS CASE No. 6/50-51.

PROSECUTION:-- Government of Mysore.

Vs.

ACCUSED:--1. Janab T.A. Bashiruddin Ahamed.
2. Janab Kabiruddin Ahamed.

Copies of charge and resume in C.C.No.74 48-49 on the file of the City Magistrate, Bangalore received from him reporting commitment of the said accused aforesaid to take their trial before this court for offences under Sections 161 of the Indian Penal Code and Sec. 5(2) of the Prevention of Corruption Act.

J U D G M E N T.

1. This case was received in this court finally on transfer from the court of the Assistant Sessions Judge, Bangalore on 18-5-50 and this is a case wherein the accused have been committed to take their trial before this court for offences under Sec. 161 I.P.C. and Sec. 5(1)(D) read with Sec. (2) of the Prevention of Corruption Act and abetment thereof, after an enquiry held by the City Magistrate Bangalore, wherein the first accused for the principal offence and the second accused for the abetment thereof.

The facts in brief are as follows:--

it is stated that the first accused Janab S.M.Bashir Uddin Ahmed, who was the House Rent Controller, Bangalore on the date of the incident, viz 16-10-48 and for some time before that, was suspected of taking bribes and illegal gratifications in disposal of the house rent cases before him. In that matter one Sri. Ranganayaka is said to have approached the Deputy Commissioner of the Bangalore District, Sri.V.Putta Rangaswamy and made representations that the first accused was corrupt and that he was also taking bribes through his son, the second accused Janab Habibuddin Ahmed. Then the Deputy Commissioner in consultation with the then Special Officer, Anti Corruption measures is said to have taken measures to lay a trap and thus verify the information received by him. On the night of 16-10-48, this Sri Ranganayaka is said to have been sent with the currency notes of value Rs.500/- duly got initialled by the First Class Magistrate of Civil Station, Sri. Ranganatha Sundaram, to the house of the accused to move the transaction completed. In consonance to the arrangements entered into between the Deputy Commissioner and the Police Officers on one side and the said Sri Ranganayaka on the other, Sri Ranganayaka is said to have gone to the house of the accused on that night and finally completed the transaction having given the sum of Rs.500/- in currency notes (bearing the initials of the Magistrate) and the first accused is said to have accepted the same and finally the second accused is said to have picked up the currency notes on the table in front of the first accused. The whole transaction has come through as is alleged through the assistance of the second accused himself who had also taken a fairly active part in the receipt of such illegal gratification. Immediately after this payment

and

acceptance the officers are said to have raided the house of the accused and took out the currency notes and saw registers and other documents and they were all seized under a mahazar. The police officer, viz. the P.W. 1, Sri Shanthaswamy Iyer, - had already taken up the investigation. The police then having closed the investigation in due course, placed the charge-sheet before the City Magistrate. The City Magistrate having recorded the evidence in the case of the several witnesses came to the conclusion that these two accused were prima facie guilty of an offence under Sec. 161 I.P.C. and Sec. 5(1)(D) read with Sec. 5(2) of the Prevention of Corruption Act as against the first accused and the abetment thereof as against the second accused. Therefore he charged them for the said offences and committed them to take their trial before the Court of Session.

3. Of the 15 witnesses that were examined in the lower court all of them are examined also in this court. No witnesses are examined for the defence. The lists of several documents exhibitted on both sides are annexed hereto.

4. Though there are 15 witnesses in the whole case, it must be observed that some of them are very formal witnesses but relevant for purposes of the case. P.W.1. Sri S.Ramapathi Sundaram, is now the District and Sessions Judge in the Mysore Judicial Service and in the month of October 1968 he was a First Class Magistrate. He was approached by Sri S.Devanna, the A.S.P. in the Department of Anti Corruption Measures, on 13-10-68 to have the 40 Ten Rupee Notes in question initialled by him and these currency notes are marked Exhibit P3 to P(88)

and for brevity they will be referred to as Exhibit P4 series. The requisitions given to him were Exhibits P1 and The witness has sworn to the fact of having checked the numbers of the currency notes with that given in the margins of Exhibits P1 and P2 and he has initialled all these 40 currency notes and has made endorsements as per Exhibits P1(a) and returned Exhibit P1 with currency notes to Dri.D.P.Rovanna and retained with him Exhibit P2. Endorsement on that also is as per Exhibit P2(a). He has also been examined later on by the D.G.P. who has investigated the whole case and has shown him also Exhibit P3 which was got produced and marked as an Exhibit in the lower court. The cross-examination is aimed at questioning his power to initial such notes and help the investigation or the police officers to lay a trap as done in the case on hand. The witness has stated that he has done this as a Magistrate and he has also stated that he had done so in many other cases even before it. It is true that no such powers are defined as powers of the Magistrate in Criminal Procedure Code or in any other law. I feel that it is not necessary that it had to be so defined. On the other hand even if any respectable witness had been made use of for this purpose nothing would have been wrong and to be above all suspicions the police have made use of the services of the Magistrate. After all there is nothing to disbelieve him and even if it be conceded that he had no such powers to do so as a Magistrate his evidence cannot be taken away nor does it help the accused in any manner. P.W.2 Dri.G.Natarajan, is the Under Secretary to Government and he is to speak regarding the sanction accorded by the Government for the prosecution of the first accused, one T.A.Bashiruddin Ahamed. The original Government

Orders

Orders as per Exhibits P4 and P5 are exhibitted and he has carried out the modified Government Order as contained in Exhibit P5(a) which is in the hand-writing of the then Law Secretary Sri.S.Kanakaratnaraj, A.A.L5, who has also sworn to these documents and it is he that has noted the instructions as per Exhibit P5(a) in his own hand and initialled. Exhibit P6 is the final copy issued to the District Magistrate, - sanctioning the prosecution of the first accused and that is signed by A.T.A, Sri.G.Nataraja. Exhibit P6 is only a copy of Exhibit P6. Much is asked of this witness, A.A.L, whether the reports of the District Magistrate in the matter formed annexures to Ext.P6 and subsequently Exhibit P2, the report of the - District Magistrate is also got summoned and exhibited on behalf of the prosecution and Sri.S.Kanakaratnaraj has sworn that it is on the strength of the report, Exhibit P2 this sanction to prosecute the first - accused was accorded. This evidence is more than sufficient to prove the sanction accorded by the Government for the prosecution of the first accused.

6. Now, we will consider the evidence of a few clerks of the office of the House Rent Controller who have to say something about the records relating to some H.R.C. cases and in particular those referring to the cases of Sri.Sanjeevappa, A.A.L4. The particular cases relating to Sri.Sanjeevappa are - Exhibits P7 to P14 but for H.R.C. cases Nos.P(7), P(13) and P(14). In Exhibit P7 one Thirumish is respondent and Sanjiva Setty is the petitioner and in Exhibits P13 and P14 Thirumurthy is the petitioner. The court has maintained a register in a regular form for all the H.R.C. cases filed in the court. A.A.L, Sri.S.

of Exhs.

Subramanian has clearly sworn that immediately petition was received in the office entries were being made in the registers and they are Registers Exhibits P16 and P16 and continued after the other and therein are the entries relating to all these cases. Apart from these court registers maintained for purposes of office reference, it has come out by the evidence of this witness and the others P.W.6, Sri.B.S. Krishnamurthy, and P.W.8, M.Rajagopal, that the first accused was maintaining registers for his own use at home having certain entries of the court registers and they are marked as exhibits P17 and P18. All these witnesses have clearly sworn that these registers were being kept by the first accused in his own house and were being brought now and then to the office - once in 2 or 4 days or a week - and further entries regarding the pending cases alone were being made therein. There is an attempt by the accused's counsel to show that these registers were maintained by the first accused and kept in his house for purposes of showing the tendency for disposals of cases, as some statements are noted in red ink here and there, but these are not registers maintained in the office for sending any statements or returns in order beyond all doubt, as there is nothing in the registers ~~as such~~ showing only abstracts or statements. There is absolutely no reason why any of these witnesses have to come and depose falsely that he was having registers like Exhibits P17 and P18 in his house probably for his own use and benefit as any one can see, if these registers were meant only for the preparation of statements or returns or even to guide the presiding officer regarding the pendency or disposal of cases, there was absolutely no necessity to have the names and addresses of the parties in such registers

except

and the records also show that there have been a number of adjournments in the case and the case has not been fixed and till 2-9-60, though it was filed on 1-8-60. No doubt a mere delay in the disposal of a case is no good reason to upset any party but that was not the only case. The witness found or learnt that the delay was not due to the fact of the officer not having sufficient time to decide but there was something, unfernand dealing also. On a certain hearing day in the month of September 60, he was standing near the court and was talking with others regarding the delay of - his case and then he came to know that the son of the House rent Controller, viz. A2, was moving - about near the court, whom he also saw that day, has a good course to have the case disposed of earlier and in one's own favour. On the next hearing day he saw the boy again seen near the court and took his opportunity to speak to him. The boy is said to have taken his address and the case number and the direction of the house of the witness. Then this boy is said to have approached the witness saying that he had a talk with his father and his father had a desire to speak with him and gave an indication to the witness that his father had a mind to be approached by this - witness. The words are well explained when they are themselves reported viz. "babku jara dekhlena". This witness who had heard already rumours that the officer was corrupt began to feel some truth about it and then, he says, it came to his mind to book the man. There was pressure on him by A2. Then he intimated of this to the Deputy Commissioner, Sri.Puttaramaswamy, and told him also that his cases were being dragged on and also that the first

accused was given to accept bribes. He was therefore asked to ensure himself and verify and that he would then get the help of the Deputy Commissioner to trap the first accused. He had to file some more cases which he did and finally on 10-10-48, the things came to take a certain shape. The boy, A8, again approached him and told him that he had not come inspite of several asking s and that gave the witness an opportunity to ask the boy to go to his father and enquire what amount he had to get ready to have the work done. He was informed on the next day that a sum of Rs.300/- was to be paid and to be brought by the 12th or 13th. This information was carried to the Deputy Commissioner on phone and the 13th was fixed up for this engagement and the Deputy Commissioner, in the meanwhile intimated the then Special Officer, Anti Corruption Enquiries, Sri.Ranjaraya, and he was also present on the 13th. Then the Deputy Commissioner had the currency notes of the value of Rs.400/- produced by the Special Officer and they were to be got initialled by the magistrate and the witness had to go and see the first accused in his house at 6-30 P.M. on the 13th of October 1948. He was given the money - this Rs.400/- in 40 currency notes - of Exhibit P8 series, after all of them had met in the house of Sri.Babu Reddy and they were all informed as to how the whole thing had to take place. While all the others remained in the then D.C.C.'s office, this witness was sent. The Police Inspector, Sri. Thogouda, and some others were sent also to keep a watch. This witness says that what sign he should make to inform Sri Reddy once that he had given the money was settled and it was an umbrella signal, viz. that the witness had to keep the umbrella against his shoulder and take it

it in case the transaction was materialised and to
hold the materials downwards if the transaction did
not materialise. At 6-40 p.m. when he went to the
house of the accused, the first accused was not at
his house but only he was present. As it was learnt
that the first accused had gone to a picture and was
about to return by about 8-30 he came again and after
his coming back, P2 is said to have actually gone to
it and brought him. Then came to the picture two
more persons Sri.Thirumeedy and Thimiah, who are
also said to have come for the a similar purpose -
for which this witness had come. He had an under-
standing with them and asked them to wait outside
till he had finished his work and came out. He
swears that he actually gave the amount to the first
accused and the first accused having received it -
placed it on the table and there was even a talk as
to how the notes and to be disposed of and the first
accused is said to have told that the witness would
get organisation fan and Govindappa evicted and as -
regards the case of Shivacharanalal and others he would see the
rents were enhanced. The witness paid Rs. 400/- and
promised to pay a hundred rupees more thereon. The
amount placed on the table by the first accused was
taken by the second accused, who was at some distance
and placed in his pocket. The witness then came out
and returned the visit to Sri.Appagowda in addition
to the materials signal he made. Sri.Appagowda entered
in and got the first accused engaged so as to give
time to the other officers to catch the accused red-
handed with money and also to see that the money was
not misplaced or in any other manner as not to be -
available. Then, came the Deputy Commissioner and
the other officers. The Deputy Commissioner and

and others having enquired the first accused, the monies were recovered as also the registers exts. P17 and P1 and the note book, ext.P22, belonging to the second accused. They were all seized under a mahazar. Exhibit P24 is the mahazar

8. This witness, A.S.Ramajeyam, seems to be a contractor and he is known by the nickname Market Ramajeyam, as he had taken a contract of the construction of the market buildings. The very application of his name that he has some properties in Kanagere City and the very exhibits on the side of the defence also prove that he was taking some contracts. His respectability is questioned on the ground that he had, as a defendant, made some - allegations in a suit filed against him as a partition, ~~was entertained by one Kaleppa, in O.S.No.47-50~~ the copies of judgment of this case and the previous cases are all filed and these judgments can be made use of only to prove their results rather than to prove the reasonings to come to the conclusion; much less to lay any foundation for the opinion of the Judges in those cases. Thus, if any remarks are made against this witness in those cases, they are not to be considered at all. On the other hand it is seen that though the suit was for Rs.17,000/- and odd, finally the suit was decreed for Rs.7000/- only. One point that is elicited during the course of cross-examination of this witness in that case is that this witness had made some presents to some Municipal officers to secure a contract and even if it be treated as a fact to be taken up against this witness, that was an incident in the year 1949 and so. Though the witness states that in contractual works of contractors all contractors have to pay some presents to the engineers

and they are not classed as bribes or gratifications, The action of paying such things or receiving cannot be considered as legal but the point is if in the year 1950 or 26 he had paid any bribes even to some officers to get a contract how he becomes disbelievable now is a point which has to be considered. A reference is also made to an award by one Sri.H.V.Krishna Rao in the matter of that case and that being questioned by this witness as being tainted on account of bribes and that the said Sri Krishna Rao had even filed a criminal case as against him for defamation wherein on a compromise he is said to have filed a letter of unqualified apology and the case was dismissed. One cannot get into the facts of that case merely by looking at the conclusions. When a criminal case is filed and is compromised between the parties, whatever may be the course adopted by the compromise, a man cannot be fixed with any liability. Particularly in the case of a defamation one cannot be certain as to how the winds turn and hence if he wanted to get rid of such a prosecution by an apology it does not mean that his allegations were groundless, much less that he was making any false allegations against any person. The result of the case itself shows that when the Arbitrator had awarded a sum of Rs.35,000/- with interest, the decree finally passed was for Rs.7000/- only. This shows that - though the witness might not have been able to prove the guilt to the hilt, the allegations made by him were not entirely without any foundation. Any how I consider that these transactions have absolutely no bearing to the case on hand and merely because such allegations are made for purposes of particular cases, they do not take away the veracity of the

witness, much less his respectability. The learned counsel for the accused has argued that under Sec. 146 of the Evidence Act, these facts become relevant to prove the veracity or to find out the nature of the man. It is not the decisions in a few cases against a person that make a man wholly unworthy of any credit. There is absolutely nothing to show that this witness is a person putting forth false defences habitually or in short he is a desperado. He were having only a few cases and he has not been called upon to file a list of all cases which he himself says are numerous ones. In many of them he is a plaintiff and in a few of them he is a defendant and in many of them he is a complainant and he is the accused only in a few of them. We have not got the results of those cases to brand him either as a desperado or a person habitually addicted to have a false ~~witness~~ defence and thus to hold that he is a man of very little veracity or a man who has absolutely no respect to truth. Therefore Sec. 146 of the Evidence Act cannot be applied to the present case on hand, considering the few cases which are selected by the accuseds' counsel for his purpose Thus, the results of the case - a few of them - that are marked as Exhibits cannot lead any one to construe that the witness is a false witness.

9. The next point that was raised against this witness is that he is in the place of an accomplice or an approver and as such his evidence has to be corroborated or at the worst he must be considered as a spy, decoy or stooge and his evidence must be considered very carefully. There is absolutely no reason to consider such a witness as an accomplice or an approver, in a case where he has been actually used as a decoy or a spy to help the officers in the case. The very evidence

evidence in the case clearly shows that he has not been in the act of bribing intentionally, and there is much less evidence to show that he was out to bribe to gain his own ends. On the other hand the whole evidence goes to prove that he has been there to help in booking the accused taking a part in the trap that was being laid. It was argued that even if this witness is a decoy or an Agent Provocator as observed in A.I.R. 1946, Nah. 27, independent corroborative evidence is needed, but I feel that such independent corroborative evidence is not wanting in the case and we have got the several circumstances including the immediate recovery of the properties and the full version of this witness is corroborated by the other witnesses also. Hence, there is absolutely no reason why the evidence of this witness is to be disbelieved or has to be brushed aside as either being untrustworthy or as being not corroborated by necessary evidence of others. There is absolutely nothing to show as to why of all the persons of Bangalore City the Deputy Commissioner had to choose and select this witness alone. As the Deputy Commissioner himself swears he had heard of this witness and seen him only in streets but had come in touch with him only during the course of this case. This further lays support that the Deputy Commissioner must have chosen him because the person must have complained to him about the conduct of the accused. Much is made of the fact that the Deputy Commissioner is said to have got into touch with this witness as pointed out in Exhibit P25. That does not really mean that the Deputy Commissioner had gone in search of this man and sought hold of him for this purpose. It does not also take away the probability of the

witness approaching him and then the Deputy Commissioner having a talk with him in the matter. I will discuss about it more in detail when I consider the evidence of the Deputy Commissioner himself. But so far as the officers are concerned, he seems to be quite dis-interested and the officers had absolutely no bad report as against him, much less were they aware that he was not a respectable person not fitted for the occasion. On the other hand they all know that he was a respectable person and that is what the Deputy Commissioner also says, ~~xxxxx~~ in his first report as per Exhibit A.23. To put to them questions as to whether they were aware that there were some litigations wherein this witness had been stamped as an untrustworthy witness or any some such thing is really unwarranted, as such things cannot weigh against him, even in a court of law, in a case entirely unconnected ~~entirely~~.

10. The only other two non-official witnesses are P.W.12, Sri D.N.Thimmareddy, and P.W.13, Sri.Pichamadhamy. It is true that of ~~these~~ persons that had to corroborate regarding the incident, only Sri.Thimmareddy is examined and it is admitted even in the cross-examination that Sri.Thimmia is in Government service and is also a broker and as such if the prosecution thought that they were not going to add much weight to their evidence by examining one more officer, who was a broker, being a Government servant and gave him up, there is nothing improper. Sri.Thimmareddy has stated as to what all he saw on that day. It is through Thimmiah that he had been dragged into this business of trying to get something by the House Rent Controller going to his own house and he states clearly that ಮನೆ construction of the house of the first accused was to be done and Thimmiah is said to have suggested that was one fine opportunity

to

to put the first accused into his pocket and have his case disposed of in his favour. Sri.Thimmareddy is a contractor. What all Thimmiah said to him is not relevant to this case, but any how he was given to understand that if he paid some illegal gratification his affairs could be easily settled and it is for that purpose that he had gone on the 14th at 8-30 P.M. with Thimmiah. He entirely corroborates the version of Sri.Sanjeeva,a that the first accused was not in the house at that hour; that the second accused was in the house and that they were informed that the first accused had gone to cinema and they were asked to be seated. According to this witness the first accused turned up at about 9-30 P.M. or was being brought by the - second accused who had gone to call him. This witness, according to the agreement between them and Sri. Sanjeevaiah, states that both of them were waiting outside and Sri Sanjeevaiah came out waiving his - umbrella and then he saw some persons were gathered. Therefore he and Thimmiah were about to get away from the scene when they were actually brought back and were present when A2 produced the currency notes, Exhibit P-1 series and also the registers Exhibits P-17 and P-18 and the note-book, Exhibit P22 and when they were seized. Except stating that he was also a Municipal Contractor as also P.W.14, Sri.Sanjivaiah, there is nothing to show why he must be disbelieved. No doubt he makes the note book to come from the pocket of A1, which is not the version of others but this probably may be for want of memory or - feeling that as the ~~things~~ same belonged to A2 and the currency notes were also taken from his pocket he might be imagining that the ~~currency notes~~ Booth also came from the pocket of A2. It is suggested that

tehere was no identification parade subsequently but when all these were done in the presence of those persons and this witness has seen all, where was the necessity for an identification parade? much is made about the fact that he saw a man in white cap and ~~took the notes as he came out~~ and it is tried to fix that Sri.Honjareppa was the only man that was wearing a white cap on that night and hence his evidence is tried to be backed. It comes out on account of this statement of this witness that even Sri. Haregowda, the olice Inspector, who entered the house of 1, - immediately after Sri.Sanjeevappa came out was wearing a white cap. It is true that Sri.Hargowda himself is not asked about it and nobody dreamed asking about it, when there was no question of this witness saying a white cap man entering in first after Sri.Sanjeevappa came out. After all I do not feel there is much weight in all theses. We have seen that white caps now a days are very common and if after going in the witness showed some white cap man inside and did not know who it was on enquiry saying that it was Sri.Honjareppa, it does not mean that Sri.Honjareppa was the person who entered the house immediately after Sanjeevappa had gone out. After all the defence is going to make much of a slight incident and if any others, other than Sri.Honjareppa, that had been sent before to watch the house of the first accused were wearing white caps, nothing seems to be strange as all those officers were in mufti. One thing is very patent that even the slightest details are being asked from this witness and much is tried to be made of the slight discrepancies. If in a hall of that sort, a witness says that he saw a wall almirah and another says he cannot remember, I feel much is tried to be made about

the

the powers of observation of the witnesses. One has to consider the hour of the day. It was past 10 P.M. and the whole thing has gone up till 11-30 or 12 mid-night and as such the small discrepancies as to what was observed by one and what was not - observed by the other cannot matter much. Even the places occupied by the several witnesses at that time cannot matter much, as even according to the accused the incident of the mahazar is all admitted as also the recovery of the properties and their - seizure. After all it was a small hall of 15' x 12' or so. Particularly this Sri.Thimmareddy was being enquired into and his statement was being recorded and as such one cannot expect him to give all attention to what all was taking place in the hall. It is also too much to expect that any body would be fixed to the ~~place whether~~ place where he was under such circumstances. Of the 3 mahazar witnesses, only one is examined, viz. P.W.13, Sri.P.Ramaswamy. I must observe that in the face of the responsible and - respectable Government officers of such high position the evidence of one non-official mahazar witness is quite sufficient and it is not necessary that all the evidence has to be let in under such circumstances. P.W.13, Sri.P.Ramaswamy has sworn to what all took place and he was then coming there from near his house which is only 80 yards from the accuseds' house and he was standing near his house after food. He was not invited but he followed the police officers and others as he saw several of them entered the house of the first accused. He states what all took place confronting A1 with Sri.Sengaviah and A1 being asked to produce the notes and A1 looking at his son A2 who took out the currency notes from his pocket,

and they bein, exhibit P8 series. He stated that exhibits P17, P18 and P22 were also produced and they were all seized. This witness has attested the mahazar, exhibit P24. He is makin a clear mistake in statin that A2 produced the documents from inside the drawer and it is contained in the mahazar that A1 produced them from inside the drawer and that must be due to want of memory, after such a long time. If in the mahazar, exhibit P24, a preamble is written as per exhibit P24(a) nothin prevents the mahazardars from signing a mahazar as to what was noted as having been done in his presence. He has stated also in the lower court that A1 himself pulled the drawer of the table and he thinks that it is A2 who took out the documents. Thus, something is played on his memory rather than getting to know what actually took place. Even this small discrepancy does not take away the evidence of this witness as there is nothin to show that he is not a respectable person or that he is in any way interested in any of the persons concerned in the case, except stating that he is a Congressman, just like Sri.Hanjarappa, he is also a Congressman. There is nothin to prove that he is not coming out with any truth or is taking any sides. It is suggested to him that he agreed to sign the mahazar since his fellow Congressman, Sri.Hanjarappa agreed to sign it. This is an important witness of whom any questions could have been suggested regarding the defence of the accused. He has clearly sworn that A1 was seated and A2 was simply standing by his side when he entered in. No word is put to him to show that A2 was actually carried in by the officers with the currency notes in his pocket and that A1 had sent his son with the currency notes to fetch the police or to return them to Sri.Hanjarappa. If the accused wanted to ob-

stantia

substantiate their defence they ought to have stated all the ~~truth~~ facts before the mahazardars and could have asked the mahazar to be written with their statements as such. The evidence of this witness clearly shows that the accused A1 and A2 have not in the least resisted any of the actions that were done at that hour. Hence, I consider the witness is quite respectable and not in any way disbelievable. He says that he came out at about 1 or 1-30 during the night time and also in the middle of the night he cannot be expected to give the correct hour.

11. Now we may consider the evidence of the several official witnesses, as a whole. P.W.15, - Sri.K.Puttarangaswamy is the then Deputy Commissioner and he swears to the fact that in the month of September 1948 P.W.4, Sri.Sanjeevish, had come and complained to him that A1, the House Rent Controller was delaying his cases and that he had learnt also that he was corrupt and that by paying moneys cases could be easily disposed of. Hence, naturally he appointed him to verify and fix it up and inform him definitely to take any further action. On the 12th he had the telephone talk of this witness that he had contacted with the son of A1 and had fixed up the engagement and also that a sum of Rs. 500/- was required for illegal gratification. Hence he at once asked Sri.Sanjeevappa to fix up the engagement on the 13th evening and he himself becomes available between the hours 12 noon and 3 P.M. of the 13th. He immediately contacts himself with Sri. Manjarappa, P.W.16. Then we have the corroborative evidence of P.W.16 and the A.S.P. Sri.B.P.Revanna, P.W.7, as to what all had taken place subsequently.

it is Sri.[illegible]evuna that is sent to have the currency notes marked and initialled by the special Magistrate and it is he that puts the money from the office. Sri.Manjappa and the Deputy Commissioner themselves came to the house of the Deputy Commissioner's uncle in Kilari Road and arrangements were all made finally in the house of Sri.Babu Reddy, meeting there at 7 p.m. These are all facts spoken to by the official witnesses, including P.W.17, Sri.Ananthaswami Iyer who has taken up the investigation of the case, after the acceptance of the requisition was finalised. The witnesses Sri.B.Narasimhulu, P.W.8 and Sri.Prancha Rao, P.W.10 were the persons that were also employed to secure the presence of Sri.Manjeevappa to the house of the uncle of the Deputy Commissioner in Kilari Road They partially corroborate the evidence of the other witnesses regarding their movements. They were also present near the house of Sri.Babu Reddy, the D.I.G. and they have also followed the party to St.Martha's Hospital and both these were the persons that watched over the house of the first accused. They saw also P.W.14 had a cloth and an umbrella. They had to understand how Sri.Manjeeviah has kept the umbrella. Much is made of the fact that this umbrella signal affair has not been spoken to by any of the police officers either before the police officers or at the time of mahazar also. I do not find that it was such a relevant fact when Sri.Manjeeviah had gone in and the Police Inspector Sri.Narasimhulu had to come in to keep engaged all till the others came, the police officer had to become aware about the transaction being materialised some how or other and I think if such an understanding about the waiving of an umbrella, there is nothing strange and that is not a very material fact concerned in the case on hand. Even if such a thing is not contained be-

para

before the police officers, it cannot take away the effect of the evidence of the several witnesses. All these official witnesses have been cross-examined at length and I must observe that they have withstood the test of cross-examination fully. After all there are some discrepancies tried to be made out on account of some omissions in their statements made now and before the lower court and before the police. I must observe that there are not material omissions in the police statements and even the statements made now are not in any way noticed for the first time to improve the case. Only one fact that is made much of and stressed is about the first accused having placed the currency notes on the table and not taking them and putting them in his pocket.- A statement given by Sri.Sanjeevappa to the officers and not recorded in the same words by the investigating Officer, when he recorded the evidence of the witnesses in substance -. I do not feel that the investigating officer was bound to take a statement of witness in toto with all details. He has himself sworn that having heard the witnesses, he gave the substance or gist of the evidence to his stenographer to be typed and as such it was his gist that finds a place in the police statements. No doubt if the omissions were very relevant something could be said about them, but after all now we do not find that there are be any such omissions in the police statements as to make the witness entirely disbelievable. It is true that in the mahazar also, it is not written that the first accused looked at his son and that he produced the currency notes. That also as one can see is a detail as any body can see and there is the mahazar itself which shows

that the second accused himself produced the amount and as in the Mahazar the statement of the accused itself, if taken into consideration, shows there is no such contradiction. On the whole, I am inclined to believe that the evidence of the several witnesses is in no way discrepant and there is nothing to discredit any of the witnesses.

12. One charge is that the Deputy Commissioner was ill-disposed as against the first accused and hence he has taken all these officers into his confidence and has foisted a case so against him. As I will shortly show, there is no foundation for such a charge. Immediately after Sri.Puttarangaswamy, P.W.15, took charge as the Deputy Commissioner, he saw that there was something illegal in the disposal of the ouse Rent Control cases on account of the Act passed in the year 1948 and brought into force from 1-7-48. Hence it was his duty to see that the first accused was appraised of the same and was asked to act up to the regulation. He writes the letter, Exhibit D18, on the same day, feeling that the orders passed by the House Rent Controller, Al, were not proper and it is natural that when an officer takes charge of his office he had to know what all has been happening in the office and whether it is being done correctly or not. He learnt even from his predecessor that papers of the H.R.C. cases were not submitted to the Deputy Commissioners. As the matters then stood, according to the House Rent Control Order coming into force from 1-7-48 it was only the Deputy Commissioner that was the House Rent Controller and as such I feel that this witness was right in calling the attention of the first accused to this matter. The first accused wrote to him a letter Ext D2 on 26-8-48 and that was replied to by the Deputy Commissioner

Commissioner as per Exhibit D14. There was also a work distribution memo as per Exhibit D15, and all these things are done in the usual course of official duties and there is nothing strange. The letter, Exhibit D14 shows that the Deputy Commissioner was quite courteous in his correspondence and at the same time was stiff in asking the officer to act up according to rules. The very fact that the Government had actually issued a notification on 21-8-48 as per Exhibit D16 shows that the action of the Deputy Commissioner, Sri. Muttarangaswamy, was quite proper. The powers of the first accused as a House Rent Controller had to be specified and he had to be called and empowered as House Rent - Controller in respect of cases under the said Act, except those under Cl.3 of the said Act. This, the first accused has acknowledged in his letter as per Exhibit D17. Thus, to consider if all these things had xxprejudiced the mind of the Deputy Commissioner and driven him to the extent of concocting a case against the first accused, in the month of October 48 seems to be preposterous having had the correspondence up to about the 28th August and seeing that no order was received and seeing also that xxxxxx has not probably yielded to the instructions given, the Deputy Commissioner wrote the letter as per Ext.D18 to the Chief Secretary and the Government Order is also of the same date. Thus, one cannot say that there was anything to disturb the mind of the Deputy Commissioner, Sri. Muttarangaswamy, and force him to think of concocting a case for bribery or receiving of illegal gratifications. No doubt A1 has also had some reference to his superior officer, the Labour Commissioner, the appellate authority of these facts and all these are only done in the -

official course and one cannot feel that it takes us any further than an official act. Hence, to consider that the Deputy Commissioner himself wanted to book the first accused some how and hence got up all these and cooked up a case cannot stand to reason and to say that respectable and high officers like Sri.Honjarappa and others supported him in any such nefarious work also seems to be quite unthinkable. Why should even the D.I.G., Sri.T.P.Kevanna, give him support for such an act against an innocent man ? It is tried to be made out that Sri.Honjarappa and this Deputy Commissioner were of the same caste and thus to feel as though they are joining hands being men of the same caste. There is no force in it.

13. Much is made of one report made by the Deputy Commissioner the very next day after the incident in question on the 13th and xxxxxx returned actually on the 14th morning to be sent to the Chief Secretary. I have perused it in toto and compared it with the whole evidence before court. There is not much difference in what all he stated there and that all is deposed to by the several witnesses before court. A few sentences are taken out and tried to contradict this Deputy Commissioner himself. After all it was a thing that had taken place some 2 years ago and Sri.Puttarangaswamy stated that what is stated in the report is true. There Sri.Honjeevarppa is said to have told him that all is said to have accepted the amount, placed same then on the table and the second accused taking them was trying to keep them somewhere in the wall almirah above the table. But now every one says and even Sri.Honjeeappa says that he told he placed in his pocket may be because it was recovered from the pocket; that the actual words he might have used at the time about the information he gave

Para 13) 27

days were forgotten and the fact of production from the pocket is kept in memory and the witnesses are giving out the version thus. As regards the production of the small note book also it may be true that since a drawer has come in and the registers are not. From the manner, the attention of the witnesses must have been only towards the drawer and all were thinking that all these were produced from the same place. Later all these are all very minor discrepancies and some times the facts are taken into consideration and the effect on the final - finale production may make the witnesses to imagine a bit. At any rate if there is anything to disbelieve this say about Exhibit P6, the report itself, it contains the - full case in details and there is absolutely nothing to question anything about the genuineness of it and even when the case is compared with the mahazar it fully satisfies the needs as the mahazar also contains in substance of what all is contained in Ext.P25, if not all the details. Thus, one has to consider the effect of the total evidence in the case with the written documents, the mahazar, Exhibit P24 and the reports, Exhibit P6 made by the Deputy Commissioner, immediately after the incident and not which are not consider a few discrepancies here and there remain very unfavourable as I have already observed some omissions in the mahazar or in the statements of the witnesses before the police and these much of, which I feel could not call for any consideration.

14. At this stage one has to consider also the statements of the accused before the lower - court which may have admitted even now. This in effect does away (to a very great extent) with the necessity of touching the prosecution evidence. Admittedly, Sri.Sanjeeva Pa has entered into the

house of the first accused, while he was in his house having returned from a picture and while talking to him Sri. Sanjeevappa referred to his cases, but the first accused did not tell him what orders he would pass but said he would look into the matter in the usual course. Then this Sanjeevappa is said to have simply placed the bundle of notes on his table and hurriedly went away. The conduct of the first accused shows that what is stated before the court as to the amount being found in his house at that hour contradicts the nature of the defence he has set up. If a man came to him, talking about his case in his court and places some money on his table and ran away what would be his conduct.? would he really send his son with the bundle to return it to the party or even ask him - a young boy - to go to the police station ? It is not natural to expect him to do so. On the other hand he knew that the other man was trying to bribe him and that was clearly an offence and he would have certainly called the neighbours or raised a cry and had him caught hold of and brought him before court. Instead of that he says he sent his own son a young Boy - to return it to him or inform the police and in a few minutes A2 himself is brought in, according to him by the C.I.D. people in mufti. What he does then he does not try to justify his innocence. He accepts yield in completely. He admits that Sri. Sarlingappa came in just when A.W.8 left his house and it is after that A2 was practically lifted and brought in. In short the statement of A2 shows that his book, Exhibit P22, admitted that he has been instrumental for notorious act of his father, knowing the numbers of cases and noting them with portion names and other details. After all the hour was not very late and there were dwelling houses in the neighbourhood. There is not the slightest evidence to show that the first accused was roused by such an

act - an illegal act - by this accused, even to pay his bribe. There is no one to say that the accused, both of them made such a statement - even before the police and not come for the release. Thus, even the accused' statements very greatly help the prosecution. The first accused is not to get bail even petitions immediately after this, on the next day and they are also not entitled to anticipatory bail.

16. Coming to some legal aspects, it was urged by the learned counsel for the accused that the very statement of the complainant or the informant, i.e. PW 14, immediately after the case given, the money was not reduced to writing in his own words, as required under Sec. 154 Cr.P.C., which requires if a complaint is given orally it should be reduced to writing and that is to be the foundation for the F.I.R. As the facts of the case show there was not much time to be lost between the time when PW 14 gave information and all the officials went to the house of the accused to the accused. Thus, if the information of the self, viz. complaint, formed forming part and parcel of the contents of the panchanama itself, I find there is nothing wrong and it was not necessary again to take his statement or to take his signature to the F.I.R. itself. As regards the next aspect Secs. 161, 164 and 165 Cr.P.C. are - read together with Sec. 5 of the Prevention of Corruption Act and in such the police have rightly registered the case and have taken the investigation. If in the course of a complaint of a cognizable offence, a non-cognizable offence is also included, it does not become necessary for the police to investigate the whole case, to take the orders of a Magistrate. Thus, when the case was registered

for offences under secs. 161, 162 and 165, I.P.C., section 161 I.P.C. being cognizable, it is not necessary for the police to take the orders of a magistrate. It is contended that exhibit P26 is a concocted document, consequently one cannot absolutely say that it is not a concocted document. If one wants to concoct a mahazer, in the case of the Deputy Commissioner's report, as per exhibit P26, that could have been concocted much more cleverly and leaving no room for any comment. It is, I feel, done in the natural course. It is also urged that the mahazer in the case does not show that it is prepared in accordance with rule 818 of the Police Manual, but I feel in the present case that all has actually taken place, since a place and if it were not written so, it could not have been a proper mahazer and if the accused's statement had to go in to certain extent it shows as I have the things were. Exhibit P26 is got signed by the accused and produced before this court for the first time and on such the accused cannot blow hot and cold in the same breath and say that it cannot be used as. I must say it is an official document sent in due course and requires no further comment and it was duly admitted.

16, As regards the offence as against the second accused it was argued by the learned counsel for the accused that there was no abetment for the offence under Sec 161 as Sec. 6 of the Prevention of Corruption Act, included the offence under Sec. 165 and that there could be no abetment for an offence under Sec. 5(2) of the Prevention of Corruption Act, as that law made no provision for such abetment. It was also urged that the charges were not proper and they are not distinct and separate ones. There is not much force in it. Abetment is provided for an offence under Sec. 161 I.P.C.

and

with and convict them for the said offences, and
regarding the punishment to be, it is seen that he is
a young boy of 19 or 20 years, attending school and
after all he was not in the house on the fateful day,
father and there are no grounds not deserve to be punished
with any Considering the age, circumstances and
the surrounding facts it is reasonable that ends
of the P.C. may be supplied and therefore,
instead of sentencing him at once to any punishment,
I think fit to release him on bail, on his executing a bond in a sum
of Rs. 10'0/- with one surety for a like sum to appear
and receive sentence when called upon within one year
and in the meanwhile to keep the peace and
be of good behaviour. As per records, the first accused
is an officer who has put long service in the
Government and is a retired Assistant Commissioner, having
certain status and responsibility and as such an accused
such an offence is morally bad. As such he deserves
deterrent sentence. Therefore, I sentence him to undergo
R.I. for a period of two years and to pay a fine of
Rs. 1000/- and in default to undergo R.I. for a further
period of six months, for each of the offences and the
sentences to run concurrently.

Dictated to the steno typist, transcribed and then
pronounced in open court on 21-7-1960

Sd/- K.R.Thimmaraya Setty.

First Addl. Sessions Judge.

Bvm.

Copy forwarded with compliments to the Registrar,
High Court of Mysore, Bangalore.

K R Thimmaraya Setty
First Addl. Sessions Judge.

APPENDIX TO JUDGMENT IN BANGALORE SESSIONS CASE 6/50-51.

I. LIST OF WITNESSES EXAMINED IN THE CASE:--

(a) For Prosecution:--

A.W.1 - Sri.S.Ganapathi Sundaram.
2 - " G.Natarajan.
3 - " S.Narayana Rao.
4 - " K.Rama Rao.
5 - " B.S.Krishna Murthy.
6 - " N.Rajagopal.
7 - " D.P.Revanna.
8 - " S.Hari Naidu.
9 - " G.C.Veerappa.
10 - " C.H.Prakasha Rao.
11 - " C.D.Adinarayana.
12 - " B.N.Thimmareddy.
13 - " P.Ramaswamy.
14 - " B.H.Sanjeevappa.
15 - " M.Puttaranga Swamy.
16 - " K.Honnappa.
17 - " A.Ananthaswamy Iyer
18 - " S.Kanakaratnaraj

(B) For defence - Nil.

II. LIST OF DOCUMENTS MARKED IN EVIDENCE:--

(a) For prosecution:--

P1. - Requisition to First Class Magistrate. Civil Station, by Sri.D.P.Revanna.

P1(a) - Entry in Ext. P1.

P2. - Another requisition to -do- -do- by Sri. D.P.Revanna.

P2(a) - Entry in Ext.P2

P3 to P4(83) - Forty ten rupees currency notes - Rs. 400/-.

P5. - Draft of G.O. dated 13-10-48, No.25660-80/C.S.144-48

P6. - Typed draft dated 11-12-48.

P7. - G.O.No.4693-4701/Cts.64-48-2, dated 11-12-48.

P7. - House rent cases records.
P8. - -do- P8(a) application in Ext. P8.
P9. - -do- P9(a) -do- P9.
P10. - -do- P10(a) -do- P10.
P11. - -do- P11(a) -do- P11.
P12 to P14 -do-

P15. - Register of H.R.C. Office.
P15(a) - Entry in Ext. P15.

P16. - Register of H.R.C. Office. P16(a) Entry in P16.

P17 & P18 - Petition Registers of H.R.C. Office.

P17(a) to P17(g) Entries in Ext.P17.

P19. - Note book of A2. P19(a) Initials of P.W.4 in Ext.P19.

P20. - Answer paper in Elementary Chemistry of A2.

P20(a) and (b) Portions marked in P20. (20-a - initials of A1

P21 - Elementary optional Chemistry answer paper of A2.
P21(a) Initials of P.W.4 in Ext.P21.
P21(b) Figure 1.1 in Ext.P21.

P22 - Pocket note book of A2. P22(a) to 22(d) Entries in Ext.P22.

P23 - Report by Sri.B.P.Revanna to the C.S.P. of Bangalore dated 13/10/48.

P24 - Memorandum re: seizure of Ext.P. to P3(38),17,18 & 22.
P24(a) and (b) - signatures in P24.
P24(c) Portion marked in Ext.P24.

P25 - Report by the District Magistrate, Bangalore(Urban) to the Chief Secretary to the Govt. of Mysore, Bangalore.

P25(a) to (25e) - Portions marked in Ext.P25.

P26. Letter d.28/8/48 from the House Rent Controller to the District Magistrate, Bangalore.

P27 & P28 - Accused' statements before the lower court.

(b) For Defence:--

D1 - Copy of letter d. 24-4-48 from D.C.'s office to the Secretary, Govt. Of Mysore, (General Secretariat Dept. Bangalore.

D2 - Letter D.2e-8-48 from the H.R.C. office to the D.C., Bangalore (Urban).

D3 - Certified copy of statement of Sri.B.P.Revanna before police.

D4 - Portion marked in the deposition of Sri C.D.Alinarayana before the lower court.

D5 - -do- of Sri B.P.Thimmareddy.

D6 - Certified copy of letter to Sri.H.V.Krishna Rao, Advocate, filed in C.C.692/40-41 on the file of the City Magistrate, Bangalore.

D7 - -do- order sheet in -do-

D8 - -do- judgment in R.A.94/35-36 on the file of the High Court of Mysore

D9 - -do- judgment in C.S.4/27-28 on the file of the Addl.District Judge, Bangalore

D10 - -do- order in Ex.148/40-41 on the file of the Subordinate Judge, Bangalore

D11 - -do- in R.A.69 & 70/41-42 on the file of the District Judge, Bangalore.

D12 - Portion marked in the certified copy of statement of Sri.B.M.Sanjeevappa before police.

D12(a) -do-

D13 - Letter d. 25-6-48 from the Deputy Commissioner to the House Rent Controller.(A1)

D14 - Letter d. 26-6-48 -do-

D15 - Circular d.28-6-48 from the Deputy Commissioner to the House Rent Controller, Bangalore.

D.6 - Notification d. 31-8-48 from the General and Revenue Secretariat.

D17 - Letter d. 1-8-48 from the House Rent Controller (A1) to the Deputy Commissioner, Bangalore(Urban)

D18 - Letter d.31-8-48 from the District Magistrate, Bangalore (Urban) to the Chief Secretary to the Government of Mysore, Bangalore.

D19 - One book marked as "

D20 - Letter d.14-10-48 written by A1 to Labour Commissioner, Bangalore.

D20(a) - Postal cover containing Ext.D20.

D21 - Copy of letter by A1 to the Chief Secretary to the Government of Mysore, Bangalore.

D21(a) Postal cover containing Ext.D21.

D22 - Proceedings regarding cancellation of Gun license of A1.

D23 - Letter d.10-7-50 from the District Magistrate of Hassan to the City Superintendent of Police, Bangalore City.

D24 - Extract of Gun license register.

P.W. - Entire deposition of Sri S.N.Ramachevappa in the lower court.

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sd/- K.N.Thimmaraya Setty.
First Addl. Sessions Judge.

krn.

G. R. S. App. F. G. 3.]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

No. 9918/CB. Date. 9.10.1950

To,

The Advocate-General for Mysore
Bangalore

Sir,

I am directed to acknowledge the receipt of a copy of Judgment delivered in B.S.C.6/50-51 on the file of the First Additional Sessions Judge, Bangalore, ~~[illegible]~~ (Govt Vs. Janab T.A. Bashiruddin Ahmed) forwarded with your do letter Dated 7th October 1950

Yours faithfully

for Chief Secretary

7.10.50

WD 06072—GPB—25,000—21-6-49

GOVERNMENT OF MYSORE.

CONFIDENTIAL

General and Revenue Secretariat,

No. 10883/CS.

Dated, Bangalore, 28.10.1950

FROM

The Chief Secretary to the Government of Mysore.

To

The Accountant-General,
Mysore, Bangalore.

Sir, ~~through Financial Department~~.

Subject: Subsistence allowance to Janab T.A. Sasheruddin Ahmed.

With reference to your letter No.577/GAD. dated the 26th September 1950, I am directed to state that the payment of subsistence allowance to Janab Sasheruddin Ahmed may be stopped from 31st July 1950, the date of his conviction and that the question of his removal from service or otherwise would be considered after the result of the appeal to the High Court is known.

Yours faithfully,

Hon. Ramakrishnaya
Chief Secretary to Government.

LC/5

GOVERNMENT OF MYSORE.

CONFIDENTIAL

General and Revenue Secretariat,

No. 10 883 /CR

Dated, Bangalore, 28 : 10 : *1950*

FROM

The Chief Secretary to the Government of Mysore.

To

The Accountant-General,
Mysore, Bangalore.
~~through Financial Department~~.

Sir,

Subject: Subsistence allowance to Janab T.A.Basheruddin Ahmed.

*****

With reference to your letter No.577/CAD. dated the 26th September 1950, I am directed to state that the payment of subsistence allowance to Janab Basheruddin Ahmed may be stopped from 31st July 1950, the date of his conviction and that the question of his removal from service or otherwise would be considered after the result of the appeal to the High Court is known.

Yours faithfully,

28/10/50

Chief Secretary to Government.

LC/5

GOVERNMENT OF MYSORE

General and Revenue Secretariat,

No. 10883/CS *Dated, Bangalore,* 28.10. *195 2*

FROM

The Chief Secretary to the Government of Mysore.

To

The Accountant-General,
Mysore, Bangalore,
~~through Financial Department.~~

Sir,

Subject: Subsistence allowance to Janab T.A.Basheruddin Ahmed.

With reference to your letter No.577/CAD. dated the 26th September 1950, I am directed to state that the payment of subsistence allowance to Janab Basheruddin Ahmed may be stopped from 31st July 1950, the date of his conviction and that the question of his removal from service or otherwise would be considered after the result of the appeal to the High Court is known.

Yours faithfully,

T Sn Ramakrishnaiya
Chief Secretary to Government.

No. 10884/CS

LC/5 Copy to Janab T.A.Basheruddin Ahmed)

Appendix F G—1]

SUBJECT... Subsistence Allowance to Janab T. A Bashiruddin Ahmed.

Diary No. of letter replied to .....

Section

File No. Conft.

Serial No.

No. 10883/Cs. Dt. 28.10.50

To

The Accountant General
in Mysore, B'lore
through D.D

Sir,

Date of issue.....

Signed by.....

With reference to your letter no. 577/G.A.D dated the 26th September 1950 I am directed to state that the payment of Subsistence allowance to Janab Bashiruddin Ahmed may be stopped from 31st July 1950, the date of his conviction and that the question of his removal from service or otherwise would be considered after the result of the appeal to the High Court is known.

General and Revenue Secretariat

( )

the 19

List of enclosures.....

Copied by.....

Examined by.....

This fact stopped from 31-7-50

Dy. Sec. 27-10-50

Chief Secretary

WD 06818—GPB—25,000—9-7-49

27.10.50

P.T.O. 27/10/50

No. 54-370/50-51
Execution copy

Office of the District Magistrate
Bangalore District
Bangalore, dated 24th October 1950.

To

The Chief Secretary to Govt.,
B A N G A L O R E.

Sir,

I have the honour to forward herewith a copy of Judgment in BSC 6/50-51 on the file of First Additional Sessions Judge, Bangalore, (Government V S. Janab T.A. Beshiruddin Ahamed and another) as desired in your letter No.9778/C.B. dated 6th October 1950, for favour of information of Government.

Yours Faithfully,

For District Magistrate
Bangalore District.

RB)

S: V. K. S.)

IN THE COURT OF SESSION, BANGALORE DIVISION, BANGALORE.

Dated: Monday, the 31st day of July, 1950.

Present:--Sri A.J.Thimmaraya Setty, B.A., LL.B.,
First Additional Sessions Judge.

SESSIONS TRIAL CASE NO. 6/50-51.

PROSECUTOR:-- Government of Mysore.

Vs.

ACCUSED:--1. Janab T.A. Bashiruddin Ahamed.
2. Janab Kabiruddin Ahamed.

Copies of charge and resume in C.C.No.74 on the file of the City Magistrate, Bangalore received from him reporting commitment of the accused aforesaid to take their trial before this Court for offences under Sections 161 of the Indian Penal Code and Sec. 5(2) of the Prevention of Corruption Act.

JUDGMENT.

1. This case was received in this court finally on transfer from the court of the Assistant Sessions Judge, Bangalore on 18-8-50 and this is a case wherein the accused have been committed to take their trial before this court for offences under Sec. 161 I.P.C. and Sec. 5(1)(D) read with Sec. 5(2) of the Prevention of Corruption Act and abetment thereof, after an enquiry held by the City Magistrate Bangalore, charging the first accused for the principal offence and the second accused for the abetment thereof.

The facts in brief are as follows:--

Para 2)

It is stated that the first accused Shri T.A.Dochin Reddy himself, who was the House Rent Controller, Bangalore on the date of the incident, viz. 10-10-60 and for some time before that was suspected of taking bribes and illegal gratifications in disposal of the house rent cases before him. In that matter one Sri. Ranganayaka is said to have approached the Deputy Commissioner of the Bangalore District, Sri.N.Putte Gowda and made representations that the first accused was corrupt and that he was also taking bribes through his son, the second accused Jamal Kabiruddin Ahmed. Then the Deputy Commissioner in consultation with the then Special Officer, Anti Corruption Cases is said to have taken measures to lay a trap and thus verify the information received by him. On the night of 10-10-60, this Sri Ranganayaka is said to have been sent with the currency notes of value Rs.600/- duly got initialled by the First Class Magistrate of Bangalore, Sri. Thopathi Sundaram, to the house of the accused to have the transaction completed. In consonance to the arrangements entered into between the Deputy Commissioner and the police officers on one side and the said Sri Ranganayaka on the other, Sri Ranganayaka is said to have gone to the house of the accused on that night and finally completed the transaction having taken the sum of Rs.600/- in currency notes (bearing the initials of the Magistrate) and the first accused is said to have accepted the same and finally the second accused is said to have picked up the currency notes on the table in front of the first accused. The whole transaction had gone through as alleged - through the assistance of the second accused himself who had also taken a fairly good part in the receipt of such illegal gratifications. Immediately after this payment and

are E,

acceptance, the officers are said to have raided the house of the accused and took out the currency notes and some registers and other documents and they were also seized under a mahazar. The Police officer, viz. the then Asst. Commissioner Iyer, had already started the investigation. The Police then having closed the investigation in due course, placed the charge-sheet before the City Magistrate. The City Magistrate having recorded the evidence in the case of the several witnesses came to the conclusion that these two accused were prima facie guilty of an offence under sec. 161 I.P.C. and Sec. 5(1)(D) read with Sec. 5(2) of the Prevention of Corruption Act as against the first accused and the abetment thereof as against the second accused. Therefore he charged them for the said offences and committed them to take their trial before the Court of Session.

3. Of the 11 witnesses that were examined in the lower court six of them are examined also in this court. No witnesses are examined for the defence. The lists of several documents exhibited on both sides are annexed hereto.

4. Though there are 11 witnesses in the whole case, it must be observed that some of them are very formal witnesses not relevant for purposes of the case. P.W.1. one G.Venkatesh Sundaram, is now the District and Sessions Judge in the Mysore Judicial service and in the month of October 1964 he was a Chief Class Magistrate. He was approached by Sri B. Devanne, the D.S.P. in the Department of Anti Corruption Measures, on 2-10-64 to have the 40 Ten Rupee notes in question initialled by P.W.1 (the these currency notes are marked Exhibit P3 to P(40)

and for brevity they will be referred to as Exhibit P series. The questions given to him were Exhibits P1 and P2 respectively. The witness is shown to the Court of Appeal, showing the numbers of the currency notes with that given in the margins of Exhibits P1 and P2 and he has initialled all those 40 currency notes as per Exhibits P2(a) and returned Exhibit P1 with currency notes to C.I.D. Inspector and retained with him Exhibit P2. Endorsement on that also is as per Exhibit P2(b). He has also been cross-examined by the D.P.P. who has investigated the whole case and has shown him also Exhibit P3 which was not produced and marked as an exhibit in the lower court. The cross-examination is aimed at questioning the power to institute such notes and help the investigations of the police officers to lay a trap on some in the case in hand. The witness has stated that he has done this as a magistrate and he has also stated that he has so in many other cases even before it. It is true that no such powers are contained in powers of the magistrate in Criminal Procedure Code or in any other law. I find that it is not necessary that it has to be so stated. On the other hand even if any investigation officers has been used of for this purpose actual which have been true, and to be above all, the police have made use of the services of the magistrate. After all there is nothing to Globeliove his own eyes. It is no coincide that he had no such powers to do so as a magistrate his evidence cannot be taken away for fear to help the accused in any manner. I.O.D. Criminal Division, is the under secretary to Government and he is to say as a result of the action recorded by the Government for the prosecution of the first accused named D. Mwaura Ngugi. The original Government

Orders

Orders as per Exhibits P4 and P5 are exhibitted and he has carried out the modified Government Order as contained in Exhibit P5(a) which is in the handwriting of the then Law Secretary Sri.S.Kanakaratnaraj, A.W.12, who has also sworn to these documents and it is he that has noted the instructions as per Exhibit P5(a) in his own hand and initialled. Exhibit P6 is the final copy issued to the District Magistrate, - Batticaloa, the prosecution of the first accused and that is signed by A.W.2, Sri.G.Natarajan. Exhibit P6 is only a copy of Exhibit P5. Much is asked of this witness, A.W.2, whether the reports of the District Magistrate in the matter formed annexures to Ext.P6 and subsequently Exhibit P25, the report of the - District Magistrate is also not summoned and exhibitted on behalf of the prosecution and Sri.S.Kanakaratnaraj has sworn that it is on the strength of the report, Exhibit P25 this sanction to prosecute the first - accused was accorded. This evidence is more than sufficient to prove the sanction accorded by the Government for the prosecution of the first accused.

6. Now, we will consider the evidence of a few clerks of the office of the House Rent Controller who have to say something about the records relating to some H.R.C. cases and in particular those referring to the cases of Sri.Sanjeevappa, A.W.14. The particular cases relating to Sri.Sanjeevappa are - Exhibits P7 to P14 out of H.R.C. cases Nos.P(7), P(13) and P(14). In Exhibit P7 one Thirmiah is respondent and Sanjeeva Setty is the petitioner and in Exhibits P13 and P14 Thimmareddy is the petitioner. The court has maintained a register in a regular form for all the ... Cases filed in the court. A.W.3, Sri.S.

S.Narayana Rao, has clearly sworn that immediately a petition was received in the office entries were being made in the Registers and they are Registers Exhibits P16 and P16 one continued after the other and therein are the entries relating to all these cases. Apart from these court registers maintained for purposes of office reference, it has come out by the evidence of this witness and two others, P.W.5, Sri.D.S. Krishnamurthy, and P.W.6, K.Rajagopal, that the first accused was maintaining registers for his own use at home having certain entries of the court-registers and they are marked as Exhibits P17 and P18. All these witnesses have clearly sworn that these registers were being kept by the first accused in his own house and were being brought now and then to the office - once in 3 or 4 days or a week - and further entries regarding the pending cases alone were being made therein. There is an attempt by the accused's counsel to show that these registers were maintained by the first accused and kept in his house for purposes of showing the pendency for disposals of cases, as some statements are noted in red ink here and there, but these are not registers maintained in the office for sending any statements or returns is clear beyond all doubt, as there is nothing in the registers showing any abstracts or statements. There is absolutely no reason why any of these witnesses have to come and swear falsely that he was having registers like Exhibits P17 and P18 in his house probably for his own use and benefit. As any one can see, if these registers were meant only for the preparation of statements or returns or even to guide the presiding officer regarding the pendency or disposal of cases, there was absolutely no necessity to have the names and addresses of the parties in such registers

except

except it be that the officer wanted them whenever he liked. Thus, these registers must have been kept by the first accused for some purpose other than mere facility to know the dispossals or pendency of cases before his court and to be in touch with the names of parties in pending cases whenever it was found necessary. These registers are got prepared just about a month or a month and a half after the first accused was appointed as House Asst. Controller and as such registers had been maintained by any other officer before him. Though much cross-examination is tried to get elicited that the first accused might have disposed of a large number of cases, but there are no correct figures to show that his attention was all towards the heavy disposal of cases before him. In the face of the very records or registers maintained in the court any such registers were not necessary with all the details contained in them.

6. P.W.4, Sri.K.Nanje Gowda, is an Assistant Master in the Government High School, Nagamangala and he was a teacher in the Government Central High School, Bangalore for nearly 4½ years, where the second accused is said to have been a student under him for a period of about 8 or 9 months when he was there. He has been examined to compare the handwriting of the second accused in Exhibit P 4 as noted and marked as Exhibit P42(a) with some admitted writings as the answer papers and the practical note book of the second accused, which this witness has seen and corrected. Exhibit P4a is one such Physics Practical Note Book of this second accused which is seen and corrected by this witness. Exhibit P4a(a) is his initials. Exhibits P80 and P21 are the

answer papers of this accused (A8) in the Elementary Chemistry and Optional Chemistry. This witness has valued them and initialled them, as seen at Exhibits A20(a) and A21(a) and he is of the opinion that the portion marked Exhibit A23(a) in Exhibit P22 appears to be in the hand writing of the second accused. Even Exhibit A23(b) he says appears to be in the hand-writing of the second accused. In view of the fact that this accused has admitted in his statement before the lower court that he has written this, though at the instance of Sri.M.Devaraja, the matter of identification of this writing deserves not much consideration. The second accused himself has stated that he was actually made to write so much and even write the letters "SO NO". Hence, at this stage, the evidence of the hand-writing expert - Sri.G.C.Veerappa P.W.9 - also needs no comment and can be accepted as the correct opinion. He has given several reasonings as to why he came to the conclusion that Exhibit A23(a) and Exhibits P19, P20 and A21 are in one and the same hand. Thus, Exhibit P22(a) is in the hand-writing of the second accused in his own note book is proved beyond all doubt.

7. Regarding the other evidence in the case, it may be divided into two classes, one as the evidence of the non-official or private witnesses and the other as the evidence of the several officers who are examined in the case. As the non-official witnesses, the evidence of Sri.Ramjeevappa, P.W.14, requires the greatest consideration and I must say that it is he who has set the ball in motion. P.W.14, Sri.Ramjeevappa, is a resident of Bangalore City, owning some houses and in Door No.119 in Albert Road below lying to him one Seshamma has to come to be tenant. He filed the petition Exhibit P8 to have him evicted and a number of hearings passed on

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and the evidence also show that there have been a number of adjournments in the case and the case was not even 1½ days old when it was fixed for hearing. So there remains in the judgment no ground in the good reason to upset any party but that was not the case. The witness found it hard that the delay was not due to the fact of the officer not having sufficient time to defend but there was something unfathomed dealing also. In a certain hearing day in the month of September 09, he was standing near the court and was talking with others regarding the delay of the case and then he came to know that the son of the Court Head Constable, viz. A1, was moving around near the court, when he also saw that boy, was a good occasion to have the case disposed of earlier and to one's own favour. On the next hearing day he saw the boy again near the court and took an opportunity to listen to him. The boy is said to have told his witness that the case number and the direction in the house of the witness. When this boy was said to have approached the witness again, that he had a talk with his father and had talked to speak with him and gave an indication to the witness that had found out a time to be approached by this witness. The words are well explained when they are themselves reported viz. "Kaka jara dekhlena". This witness who had heard already rumours that the officer was corrupt began to feel some truth about it and then, he says, it came to his mind to know the truth. There was pressure on him by A2. He had intimated of this to the Deputy Commissioner, Dehradun-Mussoorie, and told him also that his evils were being created on and also that the first

assure who given to accept bribe. He was therefore asked to secure himself and verify and that he would then get the help of the Deputy Commissioner to trap the person accused. He had to file certificate which he did and finally on 21-10-48, the time came to take certain steps. The boy, PW, again approached him and told him that he has not paid the amount of several again. It was that gave the witness an opportunity to ask the boy to go to his house and enquire what amount he was to get ready to have the work done. He had informed on the next day that a sum of Rs.500/- has to be paid and to be brought by the 24th or 25th. This information was carried to the Deputy Commissioner on phone and the date was fixed up for this arrangement and the Deputy Commissioner, in the evening intimated the Special Police, Anti Corruption Bureau, Bangalore, and he was also present on the 23rd. Then the Deputy Commissioner took the currency notes of the value of Rs.500/- produced by the Special Police and they were also initialed by the Magistrate and the witness had to go and see the accused in his house at 8-30 a.m. on the 24th of October 1948. He had given the money - this Rs.500/- in 50 currency notes - of Exhibit PU series, after all of them and not in the house of Mr.Sabu only all they were all informed as to how the whole thing had to take place. While all the others remained in the Deputy's office, this witness was sent. The Police Inspector, Sri. Bhagavan and some others were sent also to keep a watch. This witness says that that night he should come to inform and the same was to be given the money was settled and it was an agreed signal, viz. that the witness had to keep the umbrella against his shoulder and leave

it in case the transaction was materialised and to avoid the unlawful happenings if the transaction did not materialise. At 6-30 p.m. when he went to the house of the accused, the first accused was not in his house and only his wife present. So it was learnt that the first accused had gone to a picture and was about to return by about 6-45 p.m. He came again and after his coming back, AK is said to have actually gone to call and brought him. Then came to the picture two more persons Sri.Thirugnanasundaram and Thiumalai, who are also said to have come for the a similar purpose - for which this witness had come. He had an understanding with them and asked them to wait outside till he had finished his work and came out. He swears that he actually gave the amount to the first accused and the first accused having received it - placed it on the table and there was even a talk as to how the notes had to be disposed of and the first accused is said to have told that he witness would get Nagamuthu Rao and Govindappa evicted and as regards the case of Shivachidambaram Pillai he would see the rents were enhanced. The witness paid Rs. 400/- and promised to pay a hundred rupees more later on. The amount placed on the table by the first accused was taken by the second accused, who was at some distance and placed in his pocket. The witness then came out and informed all this to Sri.Madhavan Nayar in addition to the materials already he had. Sri.Madhavan Nayar entered in and got the first accused engaged so as to give time to the other officers to catch the accused red-handed with money and also to see that the money was not disposed of in any other manner as not to be - available. Then, came the Deputy Commissioner and the other officers. The Deputy Commissioner and

and others having enquired the first accused, the monies were recovered as also the registers Exts. P17 and P13 and the note book. Ext.P22. belonging to the second accused. They were all seized under a mahazar. Exhibit P23 is the connexor.

8. This witness, P.W.14, Sri.Ganjeevieh, seems to be a contractor and he comes by the nickname Market Ganjeevian, as he had taken a contract of the construction of the Market Buildings. The very application of his shows that he has some properties in Bangalore City and the very exhibits on the side of the defence also prove that he was having some contracts. His respectability is questioned on the ground that he had, as a defendant, made some allegations in a suit filed as against him on a partition, [illegible] by one Kalappa, in O.S.4/27-28 the copies of judgment of this case and the previous cases are all filed and these judgments can be made use of only to prove their results rather than to prove the reasoning to come to the conclusion; such [illegible] to lay any foundation for the opinion of the Judges in these cases. Thus, if any remarks are made as against this witness in those cases, they are not to be considered at all. On the other hand it is clear that though the suit was for Rs.17,000/- and odd, finally the suit was decreed for Rs. 7000/- only. One point that is got elicited during the course of cross-examination of this witness in that case is that this witness has made some presents to some highest officers to secure a contract and even if it be granted as a fact to be taken as against this witness, that was an incident in the year 1925 and 26. Though the witness states that in contractual works of contractors all contractors have to pay some presents to the Engineers and

are they are not classed as bribes or gratifications. The notion of paying such things or receiving cannot be considered as legal but the point is if in the year 1950 or so he had paid any bribes even to some officers to get a contract how he became disbelievable now is a point which has to be considered. A reference is also made to an award by one Sri.M.V.Krishna Rao in the matter of that case and that being questioned by this witness as being tainted on account of bribes and that the said Sri Krishna Rao has even filed criminal case on account his for defamation whereon a compromise he is said to have filed a letter of unqualified apology and the case was dismissed. One cannot get into the facts of that case merely by looking at the conclusions. When a criminal case is filed and is compromised between the parties, whatever may be the course adopted by the complainant, guilt cannot be fixed with any liability. Particularly in the case of a defamation one cannot be certain as to how the wind turn and hence if he wanted to get rid of such a prosecution by an apology it does not mean that his allegations were groundless, much less that he was making any false allegations against any person. The result of the case actual shows that when the arbitrator had awarded a sum of Rs.50,000/- with interest, the decree finally passed was for Rs.7000/- only. This shows that - though the witness might not have been able to prove the guilt to the hilt; the allegations made by him were not entirely without any foundation. Any how - whether that in the transactions have absolutely no bearing to the case on hand and merely because such allegations are made for purposes of particular cases, they do not take away the veracity or the

witness, much less his respectability. The learned counsel for the accused has argued that under Sec. 146 of the Evidence Act, these facts become relevant to prove the veracity or to find out the nature of the man. It is not the contention in a Sec cases against a person that such a man wholly unworthy of any credit. There is absolutely nothing to show that this witness is a person putting forth false defences habitually or in court he is a desperado. In one having only a few cases and he may not been asked upon to give a list of all cases which he himself says are numerous ones. As many of them he is a plaintiff and in a few of them he is a defendant and in many of them he is a complainant and he is the accused only in a few of them. We have not got the results of those cases to bring him either as a desperado or a person habitually selected to have a false witness and thus to say that he is a man of very little veracity or a man who has absolutely no respect to truth. Therefore Sec. 146 of the Evidence Act cannot be applied to the present case on hand, considering the few cases which are selected by the accused' counsel for his purpose. Then, the results of the cases - a few of them - that are marked as exhibits cannot lead any one to conclude that the witness is a false witness

3. The next point that was urged was that this witness is that he is in the place of an accomplice or an approver and as such his evidence has to be corroborated or at the worst he must be considered as a spy, decoy or stooge and his evidence must be considered very cautiously. There is absolutely no reason to consider such a witness as an accomplice or an approver, in a case where he has been actually used as a decoy or a spy to help the officers in the case. The very

evidence in the case clearly shows that he has not been in the act of bribing, intentionally, and there is much less evidence to show that he was out to bribe to gain his own ends. On the other hand the whole evidence goes to prove that he was there to help in bodily the accused taking a part in the trap that was being laid. It was argued that even if this witness is a decoy or an agent provocator as observed in [illegible], para. 87, independent corroborative evidence is needed, but I feel that such independent corroborative evidence is not wanting in the case and we have got the several circumstances including the immediate recovery of the properties and the full version of this witness is corroborated by the other witnesses also. Hence, there is absolutely no reason why the evidence of this witness is to be disbelieved or has to be brushed aside as either being untrustworthy or as being not corroborated by necessary evidence of others. There is absolutely nothing to show as to why out all the persons of Bangalore City, the Deputy Commissioner had to choose and select this witness alone. Is the Deputy Commissioner himself aware he has heard of this witness and seen him only in streets but had come in touch with him only during the course of this case. This further lays support that the Deputy Commissioner must have chosen him because the person must have complained to him about the conduct of the accused. Much is made of the fact that the Deputy Commissioner is said to have got into touch with this witness as pointed out in Exhibit P26. That does not really mean that the Deputy Commissioner had gone in search of this man and caught hold of him for this purpose. It does not also take away the probability of the

witness approaching him and then the Deputy Commissioner having a talk with him in the latter. I will discuss about it more in detail when I consider the evidence of the Deputy Commissioner himself. But, so far as the officers are concerned, he seems to be quite dis-interested and the officers had absolutely no bad reports to submit, much less were they aware that he was not a respectable person not fitted for the occasion. On the other hand they all know that he was a respectable person and that is what the Deputy Commissioner also says, known in his first report as per Exhibit P.5. So put to them questions as to whether they were aware that there were some litigations wherein this witness had been stamped as an untrustworthy witness or any such thing is really unwarranted, as such thing cannot weigh against him, even in a court of law, in evaluating validly the proof adduced.

10. The only other two main official witnesses are P.W.1, Sri K.M.Thimmareddy, and P.W.12, Sri.P.Nanjeswamy. It is true that of these persons that had to corroborate regarding the incident, only Sri.Thimmareddy is examined and it is admitted even in the cross-examination that Sri.Thimmaiah is in Government service and is also a broker and as such if the prosecution thought that they were not going to add much weight to their evidence by examining one more officer, who was a broker, being a Government servant and gave him up, there is nothing improper. Sri.Thimmareddy has stated as to what all he saw on that day. It is through Thimmaiah that he had been dragged into this business of trying to get something by the House Rent Controller going to his own house and he states clearly that ಮುಂದೆ construction of the house of the first accused was to be done and Thimmaiah is said to have suggested that why one time opportunity

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to put the first accused into his pocket and have his case disposed of in his favour. Sri.Thimmareddy is a contractor. What all Thimmiah said to him is not relevant to this case, but any how he was given to understand that if he paid some illegal gratification his affairs could be easily settled and it is for that purpose that he had gone on the 10th at 8-30 P.M. with Thimmiah. He entirely corroborates the version of Sri.Sanjeevappa that the first accused was not in the house at that hour; that the second accused was in the house and that they were informed that the first accused had gone to cinema and they were asked to be seated. According to this witness the first accused turned up at about 9-30 P.M. or was being brought by the second accused who had gone to call him. This witness, according to the agreement between them and Sri. Sanjeeviah, states that both of them were waiting outside and Sri Sanjeeviah came out waiving his umbrella and then he saw some persons were gathered. Therefore he and Thimmiah were about to get away from the scene when they were actually brought back and were present when A2 produced the currency notes, Exhibit P3 series and also the registers Exhibits P17 and P18 and the note-book, Exhibit P22 and when they were seized. Except stating that he was also a Municipal contractor as also P.W.14, Sri.Sanjivish, there is nothing to show why he must be disbelieved. No doubt he makes the note book ~~to~~ come from the pocket of A1, which is not the version of others and this probably may be for want of memory or feeling that as the ~~things~~ Scene belonged to A2 and the currency notes were also taken from his pocket he might be imagining that the ~~currency~~ notes Both also came from the pocket of A2. It is suggested that

tehere was no identification parade subsequently but when all these were done in the presence of these persons and this witness has seen A2, where was the necessity for an identification parade. Much is made about the fact that he saw a man in white cap and ~~took the notes as he came out~~ and it is tried to fix that Sri.Henjarappa was the only man that was wearing a white cap on that night and hence his evidence is tried to be backed. It comes out on account of this statement of this witness that even Sri.Maregowda, the Police Inspector, who entered the house of A1, - immediately after Sri.Sanjeevappa came out was wearing a white cap. It is true that Sri.Marigowda himself is not asked about it and nobody dreamed asking about it, when there was no question of this witness saying a white cap man entering in first after Sri.Sanjeevappa came out. After all I do not feel there is much - weight in all theses. We have seen that white caps now a days are very common and if after going in the witness showed some white cap man inside and did not know who it was, saying that it was Sri.Henjarappa, it does not mean that Sri.Henjarappa was the person who entered the house immediately after Sanjeevappa had gone out. After all the defence is going to make - much of a slight incident and if any others, other than Sri.Henjarappa, that had been sent before to watch the house of the first accused, were wearing white caps, nothing seems to be strange as all these officers were in mufti. One thing is very patent that even the - slightest details are being asked from this witness and much is tried to be made of the slight discrepancies. If in a hall of that sort, a witness ~~xxxx~~ says that he saw a wall almirah and another says he cannot remember, I feel much is tried to be made about

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the powers of observation of the witnesses. One has to consider the hour of the day. It was past 10 P.M. and the whole thing has gone up till 11-30 or 12 mid-night and as such the small discrepancies as to what was observed by one and what was not observed by the other cannot matter much. Even the places occupied by the several witnesses at that time cannot matter much, as even according to the accused the incident of the mahazar is all admitted as also the recovery of the properties and their seizure. After all it was a small hall of 15' x 12' or so. Particularly this Sri.Thimmareddy was being enquired into and his statement was being recorded and as such one cannot expect him to give all attention to what all was taking place in the hall. It is also too much to expect that any body would be fixed to the place where he was under such circumstances. Of the 2 mahazar witnesses, only one is examined, viz. P.W.13, Sri.P.Ramaswamy. I must observe that in the face of the responsible and respectable Government officers of such high positions the evidence of one non-official mahazar witness is quite sufficient and it is not necessary that all the evidence has to be let in under such circumstances. P.W.13, Sri.P.Ramaswamy has sworn to what all took place and he was then coming there from near his house which is only 50 yards from the accuseds' house and he was standing near his house after food he was not invited but he followed the police officers and others as he saw several of them entered the house of the first accused. He states what all took place, confronting A1 with Sri.Sanjeeviah and A1 being asked to produces the notes and A1 looking at his son A2 who took out the currency notes from his pocket,

and they being Exhibit P3 series. He states that Exhibits P17, P18 and P22 were also produced and they were all seized. This witness has attested the mahazar, Exhibit P24. He is making a clear mistake in stating that A2 produced the documents from inside the drawer and it is contained in the mahazar that A1 produced them from inside the drawer and that must be due to want of memory, after such a long time. If in the mahazar, Exhibit P24, a preamble is written as per Exhibit P24(c) nothing prevents the mahazardars from signing a mahazar as to what was noted as having been done in his presence. He has stated also in the lower court that A1 himself pulled the drawer of the table and he thinks that it is A2 who took out the documents. Thus, something is played on his memory rather than getting to know what actually took place. Even this small discrepancy cannot take away the evidence of this witness as there is nothing to show that he is not a respectable person or that he is in any way interested in any of the persons concerned in the case, except stating that he is a Congressman just like Sri.Nenjarappa, he is also a Congressman. There is nothing to prove that he is not coming out with any truth or is taking any sides. It is suggested to him that he agreed to sign the mahazar since his fellow Congressman, Sri.Nenjarappa agreed to sign it. This is an important witness of whom any questions could have been suggested regarding the defence of the accused. He has clearly sworn that A1 was seated and A2 was simply standing by his side when he entered in. Not a word is put to him to show that A2 was actually carried in by the officers with the currency notes in his pocket and that A1 had sent him con with the currency notes to fetch the police or to return them to Sri.Sanjeevappa. If the accused wanted to substantiate

substantial their defence they ought to have stated all the facts before the Conservators and could have refused and refused to be written with their statements if taken. The evidence of this witness clearly shows that the witness had not in the least - realised the seriousness of the matters that were done at that hour. Hence, I consider the witness is quite reasonable and not in any way unbelievable. He says that he came out at about 1 or 1-30 during the night time and also in the middle of the night he cannot be expected to give the correct hour.

14. Now we may consider the evidence of the several official witnesses, as a whole. P.W.15, - Sri.A.Muttucumaraswamy is the then Deputy Commissioner and he comes to the fact that in the month of September 1948 P.W.4, Sri.Ramajeeviah, had come and complained to him that A, the House Rent Controller was delaying his cases and that he had learnt also that he was corrupt and that by paying moneys cases could be easily disposed of. Hence, naturally he appointed him to verify and fix it up and inform him definately to take any further action. On the 12th he had the telephone talk of this witness that he had contacted with the non official and had fixed up the arrangement and also that a sum of Rs. 500/- was required for illegal gratification. Hence he at once makes arrangements to fix up the engagement on the 13th evening and he himself becomes available between the hours 12 noon and 4 P.M. of the 13th. He immediately contacted himself with Sri. Ramaraja, P.W.16. Then we have the corroborative evidence of P.W.16 and the A.S.P. Sri.B.P.Devanna, P.W.7, as to what all had taken place subsequently.

It is Sri.S.P.Jeevanna that is sent to have the currency notes marked and initialled by the Special Magistrate and it is so that gets the money from the office.and Sri.Manjappa and the Deputy Commissioner themselves came to the house of the Deputy Commissioner's uncle in Kilari Road and the arrangements were all made finally in the house of Sri.Babu Reddy, meeting there at 7 P.M. These are all facts spoken to by the official witnesses, including P.W.17, Sri.Ananthanarayani Iyer who has taken up the investigation of the case, after the acceptance of the gratification has admitted. The witnesses Sri.B.Narayana, P.W.8 and Sri.Ramachandra, P.W.10 were the persons that were also employed to secure the presence of Sri.Manjeevappa to the house of the uncle of the Deputy Commissioner in Kilari Road. They partially corroborate the evidence of the other witnesses regarding their movements. They were also present near the house of Sri.Babu Reddy, the D.I.G. and they have also followed the party to St.Martha's Hospital and both these were the persons that watched over the house of the first accused. They saw also ~~a cloth one~~ an umbrella. They had to understand how Sri.Manjeevappa had ~~a~~ finished the act. Much is made of the fact that this umbrella signal affair has not been spoken to by any of the police officers either before the police officers or at the time of mahazar also. I do not find that it was such a relevant fact. When Sri.Manjeevappa had gone in and the police Inspector Sri.Narayana had to come in to keep engaged all till the others came, the police officer had to become aware about the transaction being materialised one how or other and if they had such an understanding about the waving of an umbrella, there is nothing strange and that is not a very material fact concerned in the case on hand. Even if such a thing is not mentioned be-

fore

before the police officers, it cannot take away the effect of the evidence of the several witnesses. All these official witnesses have been cross-examined at length and I must observe that they have withstood the test of cross-examination fully. After all there are some discrepancies tried to be made out on account of some omissions in their statements made now and before the lower court and before the police. I must observe that these are not material omissions in the police statements and even the statements made now are not in any way noticed for the first time to improve the case. Only one fact that is made much of and stressed is about the first accused having placed the currency notes on the table and of taking them and putting them in his pocket.- A statement given by Sri.Sangeeva,pw to the officers and not recorded in the same words by the investigating officer, when he recorded the evidence of the witnesses in substance -. I do not feel that the investigating officer was bound to take a statement of witness in toto with all details. He has himself sworn that having heard the witnesses, he gave the substance or gist of the evidence to his stenographer to be typed and as such it was this gist that finds a place in the police statements. No doubt if the omissions were very relevant something could be said about them, but after all now we do not find that there are any such omissions in the police statements as to make the witness entirely disbelievable. It is true that in the mahazar also, it is not written that the first accused looked at his son and that he produced the currency notes. That also as one can see is a detail so any body can see and there is the mahazar itself which shows

that the second accused himself produced the amount as in the collector the statement of the accused itself, is taken into consideration, there is no such contradiction. On the whole, I am inclined to believe that the evidence of the several witnesses is in no way discrepant and there is nothing to discredit any of the witnesses.

17. The charge is that the Deputy Commissioner was ill-disposed against the first accused and hence he has taken all those officers into his confidence and has foisted a case against him. As I will shortly show, there is no foundation for such a charge. Immediately after Sri.Puttarangaswamy, P.W.15, took charge as the Deputy Commissioner, he saw that there was something illegal in the disposal of the House Rent Control cases on account of the Act passed in the year 1945 and brought into force from 1-7-48. Hence it was his duty to see that the first accused was apprised of the case and was asked to act up to the regulation. He writes the letter, Exhibit D13, on the same day, stating that the orders passed by the House Rent Controller, A, were not proper and it is natural that when an officer takes charge of his office he has to know what all has been happening in the office and whether it is being done correctly or not. He learnt even from his predecessor that powers of the ...A.C. cases were not entrusted to the Deputy Commissioners. As the matters then stood, according to the House Rent Control Order coming into force from 1-7-48 it was only the Deputy Commissioner that was the House Rent Controller and so much I feel that this witness was right in calling the attention of the first accused to this matter. The first accused wrote to him a letter Ex.D2 on 26-8-48 and that was replied to by the Deputy Commissioner

commissioner as per exhibit 11a. There was also a more discussion held as per exhibit 11b, and all these things are done in the usual course of ordinary duties and there is nothing strange. The letter, exhibit 11d shows that the Deputy Commissioner was quite courteous in his correspondence and at the same time and still asking the officer to act up according to police. The very fact that the Government has actually issued a notification as 11-C-5 as per exhibit 11c shows that the action of the Deputy Commissioner, Mr. Kuttiranganswamy, was quite proper. The powers of the first accused as a house rent controller had to be specified and so was to be called and appointed as house rent - controller in respect of areas under the said act, except those under clause 3 of the said act. Thus, the first accused has acknowledged in his letter as per exhibit 32/1 thus, to consider if all these things had unprejudiced the mind of the Deputy Commissioner and driven him to the extent of concocting a case against the first accused, in the month of October 48 seems to be preposterous, having had the correspondences up to about the 16th August not seeing that no order was received from Madras, also that Maxwell has not probably yielded to the instructions given, the Deputy Commissioner wrote the letter as per ext.P18 to the Chief Secretary and the Government order is also on the same lines. Thus, one cannot say that there was anything to disturb the mind of the Deputy Commissioner, Mr. Kuttiranganswamy, and force him to think of concocting a case for bribery or receiving of illegal gratifications. No doubt 1 has also made some reference to his superior officer, the Income Commissioner, the appellate authority of these facts and all these are only done in the -

official course and one cannot feel that it takes us any further than an official act. Hence, to consider that the Deputy Commissioner might wanted to book the first accused case has made hence got up all these and cooked up a case cannot stand to reason and to say that respectable and high officers like Sri.Honjarappa and others supported him in any such nefarious work also seems to be quite unthinkable. Why should even the D.I.G, Sri.[illegible]evanna, give his support for such an act against an innocent man. It is tried to be made out that Sri.Honjarappa and this Deputy Commissioner were of the same caste and thus to feel as though they are joining hands being men of the same caste. There is no force in it.

12. Much is made of the report made by the Deputy Commissioner the very next day after the incident in question on the 16th and the letter returned actually on the 18th morning to be sent to the Chief Secretary. I have perused it in toto and compared it with the whole evidence before court. There is not much difference in that all as stated there and that all is deposed to by the several witnesses before court. A few sentences are taken out and tried to contradict this Deputy Commissioner himself. After all it is something that has taken place some 5 years ago and Sri.[illegible] has stated that that is written in the report is true. There Sri.Honjarappa is said to have told him that A1 is said to have accepted the amount placed by him (same) then on the table and the second accused taking them was trying to keep them somewhere in the wall almirah above the table. But now every one says and even Sri.Honjarappa says that he told A2 placed in his pocket may be because it was recovered from the pocket; that the actual words he might have used at the time about the information he

(over)

have were forgotten and the fact of production from the pocket is kept in memory and the witnesses are giving out the version thus. As regards the production of the small note book also it may be true and since a drawer has come in and the registers are taken from the drawer, the attention of the witnesses must have been only towards the drawer and all were thinking that all these were produced from the same place. After all these are all very minor discrepancies and some times the facts are final taken into evidence and the effect and the final - production may make the witnesses to imagine a bit. If one sees if there is anything to disbelieve this say about Exhibit P25, the report itself, it contains the - full case in details and there is absolutely nothing to question anything about the genuineness of it and even when the case is compared with the mahazar it fully satisfies the needs as the mahazar also contains in substance of what all is contained in ext.P3 if not all the details. Thus, one has to consider the effect of the total evidence in the case with the prior documents, the mahazar, exhibit P24 and the report, Exhibit P25 made by the Deputy Commissioner, immediately after the incident and not which are not consider a few discrepancies here and there ~~which~~ very material and as I have already observed some omissions in the mahazar or in the statements of the witnesses before the police are made much of, which I feel does not call for any consideration

14. At this stage one has to consider also the statements of the accused before the lower court which they have admitted even now. This in effect goes away (to a very great extent) with the necessity of touching the prosecuting evidence. Admittedly, Sri.Sanjeevappa has entered into the

house of the first accused, while he was in his house, having returned from a picture and while talking to him Mr. Levesque returned to his car, but the first accused did not tell him what orders he would pass but said he would look into the matter in the usual course. That this Honourable Court did have simply placed the bundle of notes on his table and hurriedly went away. The conduct of the first accused shows that what he later told the court as to the amount being found in his house is that hour contradicts the nature of the conversation and set up. If a man came to him, talking about an error in his count and placed some money on his table and ran away what would be his conduct? Would he really send his son with the bundle to return it to the party or even ask him - a young boy - to go to the police station? It is not natural to expect him to do so. On the other hand he knew that the other man was trying to bribe him and just was clearly an offence and he would have certainly called the neighbours or raised a cry and him and his son would be held and brought him before court. Instead of that he says he sent his own son - a young boy - to return it to him or inform the police and in a few minutes of his visit is brought in, according to him by the U.S.A. people in Haiti. What he does then he does not try to justify his innocence. He seems to yield in completely. He says that the police came in just when he had his house and it is after that A2 was practically ill and was brought in. In short the statement of A2 shows that his book, exhibit 22, admitted that he was instrumental for nefarious act of his father, knowing the numbers of cases and noting them with particulars and other details. After all the hour was not very late as there were dwelling houses in the neighbourhood. There is not the slightest evidence to show that the first accused was roused by such

an

an act - an illegal act - by this Sri.Sanjeevappa to pay him bribery. There is no one to say that the accused, both of them made such a statement - even before the persons who had come for the mahazar. Thus, even the accused' statements very greatly helps the prosecution. The first accused is no doubt sending some petitions immediately after this, on the next day and they are almost an attempt of the self-defence.

15. Coming to some legal aspects, it was urged by the learned counsel for the accused that the very statement of the complainant or the informant, P.W. 14, immediately after he came giving the money was not reduced to writing in his own words, as required under Sec. 154 Cr.P.C., which requires if a complaint is given orally it should be reduced to writing and that is to be the foundation for the F.I.R. As the facts of the case show there was not much time to be lost between the time when P.W.14 gave information and all the officers went to the house of the accused for the Mahazar. Thus, if the information of the said P.W.14, Sri. Sanjeeviah, formed forming part and parcel of the contents of the mahazar itself, I feel there is nothing wrong, and it was not necessary again to take his statement or to take his signature to the F.I.R. itself. As regards the next aspect, Secs. 161, 164 and 165 I.P.C. are - made cognizable under Sec. 3 of the Prevention of Corruption Act and as such the police have rightly registered the case and have taken the investigation. If in the course of a complaint of a cognizable offence, a non-cognizable offence is also included, it does not become necessary for the police to investigate the whole case, to take the orders of a Magistrate. Thus, when the case was registered

for offences under Secs. 161, 162 and 164, I.P.C., section 165 I.P.C. being cognizable, it is not necessary for the police to take the orders of a Magistrate. It is suggested that Exhibit P24 is a concocted mahazar, subsequently and there is absolutely no ground to believe it. If one wants to concoct a mahazar, in the face of the Deputy Commissioner's report, as per Ext P20, that could have been concocted much more cleverly and giving no room for any comment. It is, I feel, done in the natural course. It is also urged that the mahazar in the case does not show that it is prepared in consonance with Rule 219 of the Police Manual, but I feel in the present case what all has actually taken place, finds a place and if it were not written so, it could not have been a proper mahazar and if the accused's statements had to go in to certain extent it shows as to how the things were. Exhibit P25 is got summed by the accused and produced before this court for the first time and as such the accused cannot blow hot and cold in the same breath and say that it cannot be made use of. I must say it is an official document sent in due course and requires no further comment and it has been rightly admitted.

16 As regards the offence as against the second accused it was argued by the learned counsel for the accused that there was no abetment for the offence under Sec. 161 as Sec. 5 of the Prevention of Corruption Act, included the offence under Sec. 109 and that there could be no abetment for an offence under Sec. 5(2) of the Prevention of Corruption Act, as that law made no provision for such abetment. It was also urged that the charges were not proper and they are not distict and separate ones. There is not much force in it. Abetment is provided for an offence under Sec. 161 I.P.C.

and

[illegible] can be applied even to special laws and [illegible] with the above accused and rightly - charged for ~~even~~ the principal offence with which the third accused has been charged and for abetment.

16. The learned Public Prosecutor has cited A.I.R.1947, at. al and I.L.R. 1.C. 600, to the effect that the opinion against a person in other cases is no evidence to discredit a witness, which I have already observed, while discussing the evidence of [illegible] evidence. But that goes to the extent of saying that even negligence to record a complaint cannot matter, as it is only a procedural mistake. Thus, there is absolutely no legal aspect pointed out to the effect that the accused cannot be - ~~barriched~~ [illegible] for which they are charged.

17. Mr Ameerdeen the two cases are all of the opinion that the latest accused is not guilty or the offence he is charged with and they give him the benefit of doubt. As regards the second accused, they say he is not at all guilty. One can very easily see that the inspectors are carried away by the mode of cross-examination and the slight discrepancies that have come in and they have forgotten to have the statement read out to the witnesses and they have failed to point out even if there are [illegible] discrepancies they are very slight ones and do not affect the case in the root. I, therefore, cannot agree [illegible] with the unanimous opinion of the - assessors, that both the accused are not guilty.

18. In the result, disagreeing with the unanimous opinion of the assessors, I consider that both the accused are guilty of the offences they are charged

with and convict them for the said offence. As regards the punishment of A2, it is seen that he is a young boy of 14 or 15 years, attending school and as it is seen an instrument in the hands of his father and therefore he does not deserve to be punished with any consideration his age, circumstances and other surrounding facts it is justifiable that Sec. 360 of the Cr.P.C. can be applied and therefore instead of sentencing him at once to any punishment, A2 is released under the said section, Rehimuddin Ahamed be released on bail, on his executing a bond in a sum of Rs. 1000/- with one surety for a like sum to appear and receive sentence when called upon within a period of one year and in the mean time to keep the peace and be of good behaviour. As regards, the first accused, he is an officer who has put in a long service in the Government and is a Police Assistant Commissioner, having certain status and responsibility and he to commit - such an offence is really bad, in such he deserves a deterrent sentence. Therefore, I sentence him to undergo R.I. for a period of two years and to pay a fine of - Rs. 1000/- and in default to undergo I for a further period of six months, for each of the offences and the sentences to run concurrently.

Dictated to the stenographer, transcribed and then pronounced in open court on 31-7-1950.

Sd/- K.R.Thimmaraya Setty.

First Addl. Sessions Judge.

CRT-1614-15, 2nd
Hrm. 5-8-50

7 AUG 1950

Copy forwarded with compliments to the District Magistrate, Bangalore for information and communication to the City Magistrate, Bangalore.

K.R. Thimmaraya Setty

First Addl. Sessions Judge.

APPENDIX TO JUDGMENT IN BANGALORE SESSIONS CASE 6/50-51.

I. LIST OF WITNESSES EXAMINED IN THE CASE:--

(a) For Prosecution:--

P.W.1 - Sri.S.Ganapathi Sundaram.
2 - " G.Natarajan.
3 - " S.Narayana Rao.
4 - " K.Rama Rao.
5 - " B.S.Krishna Murthy.
6 - " A.Rajagopal.
7 - " B.P.Revanna.
8 - " B.Marigowda.
9 - " G.C.Veerappa.
10 - " C.H.Pranesha Rao.
11 - " C.D.Adinarayana.
12 - " B.N.Thimmareddy.
13 - " P.Ramaswamy.
14 - " B.H.Sanjeevappa.
15 - " N.Puttarangaswamy.
16 - " A.Ranjarappa.
17 - " M.Ananthaswamy Iyer.
18 - " G.Kanakaratnaraj.

(B) For Defence - Nil.

II. LIST OF DOCUMENTS ADMITTED IN EVIDENCE:--

(a) For prosecution:--

P1. - Requisition to First Class Magistrate, Civil Station by Sri.B.P.Revanna.

P1(a) - Entry in Ext. P1.

P2. - Another requisition to -do- -do- by Sri. B.P.Revanna.

P2(a) - Entry in Ext.P2.

P3 to P3(43) - Forty ten rupees currency notes - Rs. 400/-.

P4. - Draft of G.O. dated 16-10-48, No.25660-66/C.B.144-48

P5. - Typed draft dated 11-11-48.

P6. - G.O.No.4656-4701/Cts.64-48-2, dated 11-12-48.

P7. - House rent cases records.
P8. - -do- P8(a) application in Ext. P8.
P9. - -do- P9(a) -do- P9.
P10. - -do- P10(a) -do- P10.
P11. - -do- P11(a) -do- P11.
P12 to P14 -do-

P15. - Register of M.M.C. Office.
P15(a)- Entry in Ext. P15.

P16. - Register of M.M.C. Office. P16(a) Entry in P16.

P17 & P18 - Petition Registers of M.M.C. Office.

P17(a) to P17(z) Entries in Ext.P17.

P19. - Note book of A2. P19(a) Initials of P.W.4 in Ext.P19.

P20. - Answer paper in Elementary Chemistry of A2.

P20(a) and (b) Portions marked in P20. (20-a - initials of

P21 - Elementary optional Chemistry answer paper of A2.
P21(a) Initials of P.J.C in Ext.P21
P21(b) Figure No.1 in Ext.P21.

P22 - Pocket Note book of A2. P22(a) to P22(d) Entries in Ext.P22.

P23 - Report by Sri.M.P.Revanna to the C.B.P. of Bangalore dated 13/10/45.

P24 - Mahazar re: seizure of Ext.P3 to P3(a), 17, 18 & 22.
P24(a) and (b) - signatures in P24.
P25(a) Portion marked in Ext.P25.

P25 - Report by the Dist.Magistrate, Bangalore(Urban) to the Chief Secretary to the Govt. of Mysore, Bangalore.

P26(a) to (26d) - Portions marked in Ext.P26.

P26. Letter d.26/8/45 from the House Rent Controller to the District Magistrate, Bangalore.

P27 & P28 - Accuseds' statements before the lower court.

(b) For defence:--

D1 - Copy of letter d. 24-4-45 from H.M.C. office to the Secretary, Govt. Of Mysore, (General Secretariat Dept.) Bangalore.

D2 - Letter D.2-8-45 from the H.M.C. office to the D.C., Bangalore (Urban).

D3 - Certified copy of statement of Sri.D.M.Revanna before Police.

D4 - Portion marked in the deposition of Sri C.D.Adinarayana before the lower court.

D5 - -do- of Sri D.T.Thimmareddy

D6 - Certified copy of letter to Sri.H.V.Krishna Rao, Advocate, filed in C.C.693/40-41 on the file of the City Magistrate, Bangalore.

D7 - -do- orderSheet in -do-

D8 - -do- Judgment in M.A.96/35-36 on the file of the High Court of Mysore

D9 - -do- Judgment in O.S.4/27-28 on the file of the Addl.District Judge, Bangalore

D10 - -do- order in R.A.168/41-41 on the file of the Subordinate Judge, Bangalore

D11 - -do- in R.A.69 & 70/41-42 on the file of the District Judge, Bangalore.

D12 - Portion marked in the certified copy of statement of Sri.D.M.Ramaswamy before police.

D12(a) -do-

D13 - Letter d. 25-8-45 from the Deputy Commissioner to the House Rent Controller.(A1)

D14 - Letter d. 26-8-45 -do-

D15 - Circular d. 8-8-45 from the Deputy Commissioner to the House Rent Controller, Bangalore.

D16 - Notification d. 11-8-48 from the General and Revenue Secretariat.

D17 - Letter d. 1-8-48 from the House Rent Controller (...) to the Deputy Commissioner, Bangalore(Urban).

D18 - Letter d.31-8-48 from the District Magistrate, Bangalore (Urban, to the Chief Secretary to the Government of Mysore, Bangalore.

D19 - One book named as "

D20 - Letter d.14-10-48 written by Al to Labour Commissioner, Bng. More.

D20(a) - Postal cover containing Ext.D20.

D21 - Copy of letter by Al to the Chief Secretary to the Government of Mysore, Bangalore.

D21(a) Postal cover containing Ext.D21.

D22 - Proceedings relating cancellation of Gun license of Al.

D23 - Letter d.10-7-(from the District Magistrate of Hassan to the City Superintendent of Police, Bangalore City.

P1 - Extract of Gun license register.

P23 - Entire deposition of Sri C.V.Jagadeeva,... in the lower court.

SD/- K.R.Thimmaraya Setty.

First Addl. Sessions Judge.

krm.